

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 22nd April, 2004

The House met at 2.30 p.m.

[Mr. Deputy Speaker in the Chair]

PRAYERS

NOTICE OF MOTION

INTRODUCTION OF COMMUNITY SOCIAL ENTERPRISE BILL

Dr. Ojiambo: Mr. Deputy Speaker, Sir, I beg to give notice of the following Motion:- THAT, cognisant of the fact that the poor, especially women and other vulnerable groups suffer marginalisation in their struggle to have access to economic resources owing to the inequitable legal regime currently in place; further aware that there is need to encourage investments and to promote enterprise in rural and urban areas targeting these vulnerable groups; this House urges the Government to introduce a Community Social Enterprise Bill in order to provide entrepreneurial skills and financial support for these socially excluded groups.

ORAL ANSWERS TO QUESTIONS

Question No.057

ISSUANCE OF IDs AND VOTERS' CARDS

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

- (a) what steps he is taking to ensure that all IDs that have been issued reach the applicants;
- (b) if he could consider issuing ID cards to school leavers at their respective schools; and,
- (c) if he could also ensure that IDs and Voters' cards are issued concurrently.

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

(a) Applicants are always advised, at the time of application, to collect their ID cards from their respective registration centres.

(b) Yes, it is possible to dispatch mobile registration teams during second and third terms to register those who have reached the mandatory age to obtain ID cards.

(c) Voter registration falls under an independent institution; the Electoral Commission of Kenya whose exercise is voluntary, while obtaining an ID card is mandatory for every Kenyan who has reached the age of 18 years. To merge the two departments will, therefore, require a policy harmonisation.

Mr. Mwanicha: Mr. Deputy Speaker, Sir, the situation obtaining on the ground is that there are many ID cards in District Officers' (DOs) offices which have not reached the owners. Could the Assistant Minister consider directing the administration in the field to take these ID cards to where people can get them; those who have applied? As for this policy harmonisation for the Form IV students to get their ID cards when they complete exams, when is it going to be in place?

Mr. Deputy Speaker: Order, Mr. Mwanicha! You asked a question! You cannot ask two questions at the same time. Prof. Kibwana, you may address the first question.

Prof. Kibwana: Mr. Deputy Speaker, Sir, I am very happy that you are protecting me from answering many questions at a time. As at January 2004, a total of 12,863,394 Kenyans had been registered. It is true that, as at 30th November, 2003, a total of 411,933 ID cards had not been collected from various registration centres. What we have asked District Registrars to do is to display particulars of uncollected ID cards on notice boards so that chiefs and assistant chiefs can also assist in terms of distribution of uncollected ID cards. However, strictly speaking, it is the responsibility of every Kenyan who seeks an ID card to go back and collect it. We are asking District Registrars to ensure that there is a system where assistant chiefs and chiefs are able to help in the distribution of the ID cards that have been processed.

Mr. C.M. Kilonzo: Mr. Deputy Speaker, Sir, Could the Assistant Minister tell the House whether they have a problem of stationery in the Ministry? This is because every time we go to the relevant office at the Divisional Headquarters, they tell us that there are no application forms. Is there a problem with stationery?

Prof. Kibwana: Mr. Deputy Speaker, Sir, I am not aware of any problem regarding stationery. It is mandatory to register Kenyans. It is even an offence, after somebody attains the age of 18 years, not to subject themselves to registration. Therefore, there has to be materials for registration throughout. If there is any specific place where such material is not available, then our office would be more than ready to assist the hon. Member to ensure that registration is a continuous process.

Mr. Ngoyoni: Mr. Deputy Speaker, Sir, many times Kenyans are robbed and mugged. In the process, they lose valuables such as identification cards. What plans does the Ministry have to advertise collected and found identification cards to avoid multiple registration of Kenyans?

Prof. Kibwana: Mr. Deputy Speaker, Sir, it is true that, in the course of theft, sometimes identification cards are not destroyed and they are picked by good Samaritans. Up to now, we do not have a system of making sure that those identification cards are taken to a central place from where owners can collect them. This is a matter that the Ministry will consider so that when identification cards are lost, there will be central places where they can be returned to and people can be advised to go and view them. In addition, even newspaper adverts of lost and found identification cards will be considered so that one does not have to do double registration or go through a process of getting a new identification card when one is still available.

Mr. Oparanya: Mr. Deputy Speaker, Sir, I know there are conditions that are required for one to acquire an identification card. Muslims in my constituency have been complaining that the conditions are very stiff.

Could the Assistant Minister tell the House what Muslims require to get identification cards?

Prof. Kibwana: Mr. Deputy Speaker, Sir, to acquire an identification card, you have to be a Kenyan citizen who is at least 18 years old. I am not aware now of any other conditions that are necessary. Therefore, if any Muslim, Christian or any Kenyan of whatever religion, is asked for other conditions, those conditions are null and void.

Mr. M. Kariuki: On a point of order, Mr. Deputy Speaker, Sir. The Assistant Minister says that one of the conditions for getting an identification card is attaining an age of 18. I beg to differ with this. The conditions under the Registration of Persons Act is that, it is an offence to be 18 years

and 3 months old before you register yourself. However, there is no minimum or maximum age stipulated. You can register at any one given time before the age of 18 under the Act. Therefore, is the Assistant Minister in order to mislead this House that one has to be 18 years old to apply for registration, when you can apply before you attain 18 years old?

Mr. Deputy Speaker: Order, Mr. M. Kariuki! Please, sit down! That was not a point order. You have just lectured the House on the position.

Last Question, by Mr. Mwanacha!

Mr. Mwanacha: Mr. Deputy Speaker, Sir, whenever our people go to the registration centres to register themselves they are asked to meet all sorts of requirements. Could the Assistant Minister tell the House exactly how much money is required to be able to get an identification card? For what purpose is this money required?

Prof. Kibwana: Mr. Deputy Speaker, Sir, like all monies that are ordinarily paid to the Government for any official service, monies that are required for purposes of processing application forms must be identified within an official document. If any officer asks for any money---

Capt. Nakitare: On a point of order, Mr. Deputy Speaker, Sir. Is the Assistant Minister in order to tell us that to be a registered Kenyan citizen one has to pay for the services that the Government is providing through the taxpayers' money? Secondly, people from outside the country have acquired identification cards---

Mr. Deputy Speaker: Order, Capt. Nakitare! Obviously, that was not a point of order. Please, proceed, Prof. Kibwana!

Prof. Kibwana: Mr. Deputy Speaker, Sir, whatever minimal amount of money that is required for processing a registration form in terms of documents and so on, is always explicitly written on the official papers. If any registration officer asks for money that is not specifically written in those official documents, that is corruption. It is illegal and it must be reported to the police.

Deputy Speaker: Next Question by Mr. Obwocha!

Question No.009

RETIREMENT BENEFITS BILL FOR
VICE-PRESIDENT AND SPEAKER

Mr. Obwocha asked the Minister for Finance when he will publish the retirement benefits Bill for a retired Vice-President and Speaker as provided in the Cockar Report on remuneration, terms and conditions of service for Members of Parliament.

The Assistant Minister for Finance (Mr. Katuku): Mr. Deputy Speaker, Sir, I beg to seek the indulgence of this House to answer this Question on Tuesday simply because I did not get an adequate answer and I need to give this House a very good answer.

Mr. Obwocha: Mr. Deputy Speaker, Sir, you can appreciate that this is a straightforward Question. It was directed to the Attorney-General's office which said it should go to the Ministry of Finance. Those provisions are in the book which was adopted by this House. So, what is the big deal? It is just a matter of bringing a Bill here to provide for the Vice-President and Speaker's retirement emoluments. Could the Assistant Minister explain why he cannot provide an answer?

The Assistant Minister for Finance (Mr. Katuku): Mr. Deputy Speaker, Sir, I have explained and, actually, the hon. member seems to know more than me. The Question initially was directed to the office of the Attorney-General and it came to us yesterday. That is why we were not able to get all the details in place. Therefore, I am asking for more time to be able to answer the Question.

Mr. Deputy Speaker: Mr. Obwocha, if the Assistant Minister is asking for more time and

he says they got the Question only yesterday, why can we not give him the time he wants?

Mr. Obwocha: Mr. Deputy Speaker, Sir, I want to remove the untruth. The office of the Clerk of the National Assembly told me last Thursday that it had directed the Question to the Ministry of Finance. That is a week ago and the gentleman---

Mr. Deputy Speaker: Order, Mr. Obwocha! Whatever the reason, how much time do you want to be given, Mr. Katuku?

The Assistant Minister for Finance (Mr. Katuku): Mr. Deputy Speaker, Sir, I said I will bring the answer before the House on Tuesday.

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

(Question deferred)

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

Mr. Deputy Speaker: No, Mr. Omingo! We shall not waste time on a Question that has already been deferred. You will raise your point of order when the Question comes before the House again.

Next Question by Mr. Muriungi!

Question No.078

MEASURES TO CURB UNFAIR
TRADE PRACTICES

Mr. Muriungi asked the Minister for Finance:-

- (a) whether he is aware that some multinational companies are using unfair trade practices to kill locally-incorporated enterprises; and,
- (b) when the Government is going to introduce "Anti-Trust Regulators" to the Monopolies Act to control unfair trade practices.

The Assistant Minister for Finance (Mr. Katuku): Mr. Deputy Speaker, Sir, likewise, I would like to seek indulgence of the House to answer this Question on Wednesday. If you look at the Order Paper, previously, the Question was supposed to be answered by the Minister for Trade and Industry. We just saw it on the Order Paper today and we enquired from the Clerk's Office. Officially, we have not received the Question, but we have gotten a copy of it through the Order Paper.

So, I would want to be given more time. The confusion is not with us, but with the Clerk's office.

Mr. Muriungi: Mr. Deputy Speaker, Sir, I might not be in the House on Wednesday because our Departmental Committee will be meeting at 2 p.m. So, we need to reschedule the Question to be answered, if possible, on Tuesday.

Mr. Deputy Speaker: Mr. Katuku, let us have the Question answered on Tuesday, next week.

(Question deferred)

Next Question!

Question No.055

CLASSIFICATION OF ROADS

IN IJARA DISTRICT

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

- (a) which roads are classified in Ijara District; and,
 (b) what the length and category of classification is in each case.

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

(a) The following roads are classified in Ijara District. They are Ijara Centre to Bodhei Centre, Masalani/Bura, Galmagalla/Hulugho, Masalani/Sangole/Galmagalla and Masalani/Majengo.

(b) The length and classification in each case is as follows:-

<u>Road</u>	<u>Classification</u>	<u>Length (KM)</u>
Ijara Centre/ Bodhei Centre	D568	45
Masalani/Bura	E835	80
Galmagalla/Hulugho	E863	33
Masalani/Sangole/ Galmagalla	E864	111
Masalani/Majengo	E873	6

Mr. Y. Haji: Mr. Deputy Speaker, Sir, I would like to thank the Minister for the answer he has given this House. But there is one very important road which links Masalani and Coast Province, particularly Malindi and Mombasa. This is Masalani/Kotile/Garba Tula Road which seems to have been omitted. Could the Minister tell us whether money has been provided for improving those roads since all of them are impassable as I speak here today?

Mr. Raila: Mr. Deputy Speaker, Sir, as the hon. Member has noted, all those roads are classified under "D" or "E" category. This category of roads falls under the jurisdiction of the District Roads Committee (DRC), of which the hon. Member is a member. But that notwithstanding, the Ministry is trying to maintain all the other roads in his constituency, like the road he has just mentioned that links Masalani and Mombasa. We are in the process of constructing a bridge on that particular road.

Mr. Kombe: Thank you, Mr. Deputy Speaker, Sir. What plans does the Minister have for all roads in the Republic of Kenya which fall under the DRCs? I am asking this question because the allocation the Ministry has made to the DRCs is far much below the expectation, since a culvert costs about Kshs5 million. What plans does he have to increase the amount allocated to the DRCs?

(Applause)

Mr. Raila: Mr. Deputy Speaker, Sir, the amount allocated to the DRCs is already provided for under the Kenya Roads Act. The Ministry cannot allocate more than what is provided for under the Act. But I want hon. Members to appreciate the fact that the Ministry has got a very comprehensive programme for road maintenance and construction in the country. It should also be appreciated that road construction and maintenance is capital intensive. My Ministry uses every penny voted in this House to repair, maintain and construct roads. But until we have sufficient resources, we will have to do with the existing roads.

Mr. Y. Haji: Mr. Deputy Speaker, Sir, from the answer the Minister has given, you will see that the roads in Ijara District are classified under "D" or "E" category. I do remember that the District Development Committee (DDC) recommended, two years ago, that those roads be upgraded. What has the Ministry done to have those roads upgraded?

Mr. Raila: Mr. Deputy Speaker, Sir, the Ministry commissioned a road condition survey countrywide. The last time that, that survey was done was in 1970. That study is complete and I will

receive the report next week. Once we receive that report, we will upgrade several roads in the country, including the ones the hon. Member has mentioned. So, it is feasible and possible that a number of those roads will be upgraded either to Class "C" or "B".

Question No.003

POSTING OF TEACHERS TO
MWIRERI PRIMARY SCHOOL

Mr. Wamwere asked the Minister for Education, Science and Technology whether he could consider sending more teachers to Mwireri Primary School, Nakuru, where three teachers have been assigned to teach six classes.

The Assistant Minister for Education, Science and Technology (Dr. Mwiria): Mr. Deputy Speaker, Sir, I seek the indulgence of the House to allow me to answer this Question on Tuesday because there has been some confusion as to the school in question. I was given information concerning a different school because there are three schools with the same name. There has been that confusion. I would like to request the Chair to allow us to answer this Question on Tuesday next week.

Mr. Deputy Speaker: But, last week, your colleague, Mrs. Mugo, told us the same thing about this Question. That is why it was deferred to today. Dr. Mwiria, you have told us exactly what Mrs. Mugo told us last week. As much as we have no objection with you answering the Question on Tuesday, next week, are you aware that Mrs. Mugo told us last week exactly what you have told us now?

The Assistant Minister for Education, Science and Technology (Dr. Mwiria): Mr. Deputy Speaker, Sir, I cannot say that last week, Mrs. Mugo told this House exactly what I have said now, because I was not here. I was just given that answer. I was not here last week. I realised very late that they gave me the same answer. I apologise to the House and assure it that I will answer the Question on Tuesday, next week.

Mr. Wamwere: Mr. Deputy Speaker, Sir, while I cannot deny the Assistant Minister the request he has made to answer the Question next week, I would like to urge him to tell his officials to do a better job of locating the right school.

Mr. Deputy Speaker: Very well, Mr. Wamwere. I will defer this Question. It is only that the Chair is concerned that we have a backlog of Questions. We are not moving because we keep on deferring some Questions. Mr. Assistant Minister, when will you answer this Question?

The Assistant Minister for Education, Science and Technology (Dr. Mwiria): Mr. Deputy Speaker, Sir, I will answer it on Tuesday next week.

Mr. Deputy Speaker: I defer this Question to Tuesday next week!

(Question deferred)

Question No.013

IMPLEMENTATION OF KABSABET
WATER/SEWERAGE PROJECT

Mr. Sambu asked the Minister for Water Resources Management and Development:-

- (a) when the Kapsabet Municipality Water Project will be implemented;
- (b) whether she could explain the whereabouts of Kshs490 million donated to this

project;

(c) when the sewerage project for Kapsabet Municipal Council started and when it will be completed; and,

(d) what the initial cost was and what will be the cost when the project is completed.

The Minister for Water Resources Management and Development (Ms. Karua): Mr. Deputy Speaker, Sir, I beg to reply.

(a) The Ministry has already carried out the basic design for Kapsabet Water Supply Project. We have also approached a donor to provide funding for this project, starting from the 2005/2006 Financial Year. Meanwhile, the Ministry will allocate funds during the coming financial year to go towards updating the project design.

(b) There were no funds donated to this project and the figure of Kshs490 million was a cost estimate, arising from the basic design study which was used to market the project to potential donors. This is a fact the Questioner should know, as it dated back to the period he was in the Government.

(c) Kapsabet Sewerage Project was started in 1990 by the Ministry of Local Government and complemented in 2002. Phase I was constructed---

(Loud consultations)

Mr. Deputy Speaker: Order, hon. Members! We cannot hear the Minister!

(Ms. Mwau consulted with Mr. Munyao)

Order, Ms. Mwau! What you are doing is completely out of order!

The Minister for Water Resources Management and Development (Ms. Karua): Mr. Deputy Speaker, Sir, Phase I was constructed between 1990 and 1995, while Phase II was constructed between 1996 and 2002.

(d) The initial project cost was Kshs141,462,073.75 and the final cost was Kshs321,224,979. The initial cost for Phase II was Kshs121,444,239 and the final cost was Kshs396,130,000. The project cost estimate escalated due to the long period of time taken to implement the project, as a result of inadequate annual Budget provisions from the Exchequer.

Mr. Sambu: Mr. Deputy Speaker, Sir, Kapsabet is an old town which was started at the beginning of the last century. Could the Minister confirm whether the Ministry has approached a donor to fund those projects starting from the 2005/2006 fiscal year? Has that been confirmed? How much money will be given? That is my only question. Otherwise, I am satisfied with the answer.

Ms. Karua: Mr. Deputy Speaker, Sir, when you approach a donor for funding, you cannot confirm before the grant agreements are prepared and signed. All I can commit is that we are doing our best to get funding for that project. We have approached the Japanese Government for a grant aid. I want to say that I relayed the same message to the residents of Kapsabet when in June, last year, at the invitation of the Assistant Minister, Office of the President, Mr. Tarus, I visited Baraton University and the issue was raised. We are committed to ensuring that the project takes off.

Mr. Salat: Mr. Deputy Speaker, Sir, I would also like to ask the Minister what is the policy of the Ministry, because Bomet Municipality does not have a sewerage system.

Ms. Karua: The Ministry's policy was passed by this Parliament in 1999. So, you should be able to find that. I want to confirm that we are trying to find funding for medium and small towns. I believe that the funding we are looking for at the moment is for Kapsabet, Migori, Narok and Naivasha. We will continue to look for funding for other towns that are not included.

Mr. Arungah: Mr. Deputy Speaker, Sir, I am sure every Member of Parliament has

something to ask about water in their respective constituencies. My question is: Does the Ministry have a national masterplan, so that we will know that, in the year 2006, we shall get water in various places? Does it have such a plan that we can access to, to avoid asking individual questions on the matter?

(Applause)

Ms. Karua: Mr. Deputy Speaker, Sir, yes, there is a National Water Masterplan of 1992. It was updated in 1998. We shall continue to update it, especially with the formation of the Regional Water Service Boards, which are now going to take over planning for each area.

Mr. Deputy Speaker: Last question, Mr. Omingo!

Mr. Omingo: Mr. Deputy Speaker, Sir, I would like to ask the Minister whether the policy she is talking about is the one that spelt that all Kenyans will get water by the year 2000, or it is a different one modified under the NARC Government. That is because it was "minus water for all by the year 2000!"

(Applause)

Ms. Karua: The dates you are talking about were given previously. But since there is continuity in the Government, we admit there were such dates. But the policy I am talking about - and you may wish to acquaint yourself with it - was passed by this House in 1999.

Mr. Deputy Speaker: Next Question, Mr. Angwenyi!

Question No.010

REPAIR/EXPANSION OF
SUNEKA AIRSTRIP

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

- (a) whether he is aware that Suneka Airstrip is highly dilapidated;
- (b) what immediate steps he will take to repair and maintain that important airstrip; and,
- (c) what long-term plans he has to expand the airstrip into an airport to serve the south and western regions of this country.

The Minister for Roads, Public Works and Housing (Mr. Raila): Mr. Deputy Speaker, Sir, I would like us to defer this Question. I had explained to the hon. Member that this Question was first taken to the Office of the President, and we only received it this morning. So, we are preparing an answer and we could answer it, maybe, next week.

Mr. Deputy Speaker: I sympathise with Mr. Angwenyi! It is true that the Question has been moved severally and, finally, it has landed at the Ministry of Roads, Public Works and Housing. What do you say, Mr. Angwenyi?

Mr. Angwenyi: Mr. Deputy Speaker, Sir, the Minister has consulted with me. But that shows that there is need to establish a post of a Government Co-ordinator.

An hon. Member: A Prime Minister!

Mr. Angwenyi: That is because the first time, it went to the Ministry of Transport and Communications. Then, it went to the Office of the President. Maybe, it went to various Ministers in the Office of the President. Now, it has landed in the Ministry of Roads, Public Works and Housing! I do not know where it will go next! But, be that as it may, I agree that we defer the Question to the first week of May.

Mr. Deputy Speaker: Mr. Minister, when are you going to answer it?

The Minister for Roads, Public Works and Housing (Mr. Raila): Mr. Deputy Speaker, Sir, I have discussed with the hon. Member and, since I am also going to be away next week, I will be happy to answer it in the first week of May.

Mr. Deputy Speaker: Very well! Question deferred to the first week of May!

(Question deferred)

Now, hon. Members, let us move to Questions by Private Notice.

QUESTIONS BY PRIVATE NOTICE

REGISTRATION OF CHOGORIA

KCSE CANDIDATES

Mr. Ngoyoni: 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 two Form IV students from Laisamis Constituency namely; Kirinyal Sarewa Galboran and Ejere Gaere Bursuna, schooling at Chogoria Boys High School, have been denied registration to sit for this year's KCSE by the school administration?

(b) What immediate steps is he taking to ensure that the two sit for their examinations?

(c) What disciplinary measures is the Minister going to take against the school administration to ensure that such action will never recur?

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

(a) I am aware that two Form IV students from Laisamis Constituency namely; Ejere Gaere Bursuna and Kirinyal Sarewa Galboran were not initially registered for the Kenya Certificate of Secondary Education examinations at Chogoria Boys High School. The two boys had been sent home for school fees, but reported back when registration had already been done.

(b) Ejere Gaere Bursuna has already been registered since he has completed filling in the computer sheets. The other student's registration is in the process and will be ready by the time of late registration, which is by the end of May, 2004.

(c) I cannot discipline the administration of the school because it was not its fault that the two students failed to register for the examination. The problem arose because the students were not able to raise school fees on time.

Mr. Ngoyoni: Mr. Deputy Speaker, Sir, first of all, I do not have a copy of the written answer that the Assistant Minister was reading.

Secondly, I think the payment of examination fees amounts to a contract between the Kenya National Examinations Council (KNEC) and the student. The administration of the school has no business in it, other than collecting the money on behalf of the KNEC. The collection of school fees is a matter for the administration. Why then are they punishing those young Kenyans to pay an extra Kshs3,000 for late registration? Could the Assistant Minister take some action against the administration?

Dr. Mwiria: Mr. Deputy Speaker, Sir, I have explained that the problem was not with the examination fees, but with the school fees. We realise there are problems there because headteachers are using the excuse of non-payment of school fees to hold certificates or refuse registration. But, I agree that in that case, the problem has been solved and, therefore, there is no need to punish the principal. One of the students has been registered and the other one will be registered by the end of May.

Mr. Deputy Speaker: Mr. Wanjala, do not stand on a point of order! Ask a question this time!

Mr. Wanjala: Mr. Deputy Speaker, Sir, it has really been frustrating because when it reaches registration time, students with school fees arrears are sent home and fail to register. Such students have wasted their four years and even paid a lot of money for school fees. What policy does the Ministry have to ensure that school fees are not attached to registration fees during the registration period?

Dr. Mwiria: Mr. Deputy Speaker, Sir, we are considering the best way to deal with that matter which, as you know, is a major problem. We also need to appreciate the dilemma that school principals sometimes find themselves in. I agree with the hon. Member that we need to find a solution such that school fees are not used to make it difficult for young Kenyans to register for exams.

Dr. Galgallo: Mr. Deputy Speaker, Sir, we know that many students have been denied registration because they are unable to pay examination fees which they are forced to pay only in the final year. Since many Kenyans are unable to pay even school fees, could the Assistant Minister consider abolishing payment of examination fees, so that every child who goes through Form Four gets education?

(Applause)

Dr. Mwiria: Mr. Deputy Speaker, Sir, well, yes, we shall consider but it is not quite clear that it will be approved. However, certainly we shall consider it.

Mr. Sasura: Mr. Deputy Speaker, Sir, while the Assistant Minister is considering abolishing examination fees, considering--

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

Mr. Deputy Speaker: No! There is no point of order! Mr. Sasura, ask your question!

Mr. Sasura: Mr. Deputy Speaker, Sir, the Assistant Minister has now admitted that, in most cases, the examination fees are less than the fees payable by the affected candidates. In view of this, could he then issue guidelines to secondary schools that all Form Four students who, before they register but have paid their school fees, that it be converted into examination fees, so that they are not sent home at any time for non-payment of examination fees as a temporary measure?

Dr. Mwiria: Yes, Mr. Deputy Speaker, Sir. I would like to say that we shall consider hon. Sasura's suggestion, along with that of hon. Dr. Galgallo.

Mr. Ngoyoni: Mr. Deputy Speaker, Sir, late registration carries some penalties, amounting to a levy of about Kshs3,000 and that is too much for a poor Kenyan, particularly those ones who come from my area which had a very prolonged drought. Could the Assistant Minister consider waiving late registration for those students and many others?

Dr. Mwiria: Yes, Mr. Deputy Speaker, Sir. We shall consider but I think as we do so, it will be necessary to basically find out which is the best way to ensure that students are registering on time. Again, I would like to say again, that we need to appreciate the dilemma of people that are running schools but I appreciate that there is a problem and those who do not pay first time is because they cannot afford. So, we shall consider but again, let us find a better solution.

Mr. Deputy Speaker: Next Question by Private Notice by hon. Wamwere!

ISSUANCE OF CERTIFICATES
OF GOOD CONDUCT

Mr. Wamwere: Mr. Deputy Speaker, Sir, I beg to ask the Minister for Justice and Constitutional Affairs the following Question by Private Notice.

(a) Is the Minister aware that Mr. Daniel Kigochi Waimiri is unable to take up employment offered to him by Eldoret Express Company on 12th February, 2004 as he cannot obtain a certificate of good conduct?

(b) Is he further aware that the said certificate is denied on account of a charge that was filed against Mr. Kigochi (Nakuru Case No.CR769/163/93) which was later dropped by the State on 28th January, 1994?

(c) Given that Kenyans looking for employment have to furnish prospective employers with the above certificate which former convicts and others who have had court cases against them cannot obtain, could the Minister consider withdrawing this requirement?

The Assistant Minister for Justice and Constitutional Affairs (Mr. Githae): Mr. Deputy Speaker, Sir, I would be happy to answer this Question but, unfortunately, the department that issues certificates of good conduct is under the Office of the President. So, we have referred this Question to where it rightly belongs, which is the Office of the President. I have also spoken to the Minister of State, Office of the President in charge of internal security and he has confirmed that he will be in a position to answer it any time next week.

Mr. Wamwere: Mr. Deputy Speaker, Sir, before I filed this Question, I had thought about which Ministry would be the right one to answer it. In this Question, there is the violation of someone's human rights.

Mr. Deputy Speaker: Mr. Wamwere, address those issues you are raising when the Question will be answered. I just wanted you to note that the Question has been transferred to the Office of the President and, therefore, it will be deferred to next week. So, you cannot argue about the pros and cons of the Question because it has not been answered. So, we are deferring this Question to Thursday next week.

Mr. Wamwere: Mr. Deputy Speaker, Sir, Tuesday next week would be better because the person involved in this Question is waiting to take up a job but he cannot, for lack of this certificate of good conduct.

Mr. Deputy Speaker: Mr. Wamwere, two days will not make a difference. It is a new Question to another Ministry. So, it will be deferred to Thursday next week.

Mr. Wanjala: On a point of order, Mr. Deputy Speaker, Sir. The Question before you is very urgent. There are no jobs in this country. Despite the fact that there are different Ministries---

Mr. Deputy Speaker: Order, Mr. Wanjala! Be careful!

(Laughter)

(Question deferred)

RETRENCHMENT OF TELKOM EMPLOYEES

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

(a) Is the Minister aware that Telkom Kenya is in the process of retrenching over 6,000 employees?

(b) Could the Minister halt this retrenchment exercise until he tables a policy Paper on retrenchment for discussion and approval?

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

(a) I am aware that Telkom Kenya's exclusivity period for sole provision of fixed telephone services in the country will expire on 30th June, 2004. Consequently, and in order for the company to be competitive in terms of quality, price and range of services to its customers in the liberalised market, it will have to off-load non-core and semi-skilled staff. Telkom Kenya will, on the other hand, create new employment opportunities in the company for engineers, technicians, marketing and information technology experts to give the company a competitive edge in the market.

(b) The staff rationalisation exercise has not yet started, as it is envisaged that it will be undertaken within the context of the overall restructuring and privatisation to be implemented after the enactment of the Privatisation Bill. The Ministry is very conscious of the adverse effects that retrenchment without a human face can have on an employee and his family. It is with this in mind that the Government will adopt a deliberate policy to soft-land the affected employees by providing an attractive package. It will also provide opportunities which are now being explored that are appropriate for an arrangement under which some of the affected officers could be engaged by the company to offer ancillary services in rural areas on an agency basis.

Mr. Angwenyi: Mr. Deputy Speaker, Sir, I have that answer although it is not signed. I do not know whether the Minister forgot his pen or something. However, I think that we should put in abeyance all programmes of retrenchment in this country, until we bring a Sessional Paper in this House to discuss retrenchment fully.

Mr. Deputy Speaker: Ask your Question!

Mr. Angwenyi: Mr. Deputy Speaker, Sir, my question is this: Are we going to discontinue exclusivity of Telkom Kenya in order to remove our people from employment?

Mr. Michuki: Mr. Deputy Speaker, Sir, a decision has already been taken by the Government that, by the end of June this year, there should be a second national land line operator of telephones in Kenya in competition with Telkom Kenya. It is, therefore, important that the only way to save Telkom Kenya in the light of that competition is to make sure that it operates on a strictly business basis. The business basis means that it must have returned the capital investment and, consequently, scale down its own expenditure in order to provide for that financial return.

Mr. M'Mukindia: Mr. Deputy Speaker, Sir, although we are aware that the Minister has been very keen on streamlining the *matatu* industry, and aware of the fact that the value of Telkom Kenya Ltd. has been decreasing in the last one year to the extent that its revenue has been dribbling, why has the Minister taken so long to turn round Telkom Kenya Ltd. before it completely loses its value?

Mr. Michuki: Mr. Speaker, I think the answer to that question ought to be very obvious. However, I will address it. Telkom Kenya Ltd. just like any other parastatal that existed in the last ten years, had experienced a period of uncertainty whereby the issues of privatisation, strategic partners, outright sales and so many other issues were put forward, but nobody during those ten years was able to make a decision as to which way to go. Consequently the management sat back. All these institutions; Telkom Kenya Ltd., Kenya Railways Corporation, and Kenya Ports Authority, deteriorated. So, now, we have to carry an unnecessary bill of Kshs3 billion a year to retain people who, commercially, are not justified.

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

Mr. Deputy Speaker: Mr. Mwandawiro, if you want to ask a question, just stand up and I will see you! You do not have to shout!

Mr. Opore: Mr. Deputy Speaker, Sir, the Minister has stated that there will be employment generated out of the programme. Has he given some consideration for retraining some of the 6,000 members of staff who are supposed to be retrenched?

Mr. Michuki: Mr. Deputy Speaker, Sir, I wish the hon. Member listened when I said that

the majority of the personnel to be retrenched fall under the non-scaled category. Therefore, the issue of training does not arise. But, Perhaps, I should add this: There is a yardstick that is internationally accepted in looking at the telephone issues. It is based on how many lines are handled by each employee. It will be interesting for the hon. Member to learn that in Kenya, 17 telephone lines are handled by one person. In South Africa it is 113 lines per person; Swaziland, 70 lines per person; Tanzania, 48 lines per person; Mozambique, 37 lines per person; Zimbabwe, 30 lines per person as compared with 17 lines per person in Kenya. It is no wonder, then, that when a telephone line is being prepared, you find over ten people congregated as if they were trapping white ants.

Mr. Deputy Speaker: Hon. Members, I am sorry. I know that you want to ask more questions. However, we cannot give more time for this Question. Last question by Mr. Angwenyi.

Mr. Angwenyi: Mr. Deputy Speaker, Sir, this is a very serious question. Close to 10,000 people are going to lose their jobs during this retrenchment exercise. We have got experience in Kenya. In the last ten years, more than 100,000 Kenyans have lost their jobs in the Civil Service. They are now destitute. Even those who left the service under the "Golden Handshake" programme are now destitute.

Mr. Speaker: What is your question, Mr. Angwenyi?

Mr. Angwenyi: Mr. Deputy Speaker, Sir, what I am asking the Minister to do is to put this exercise in abeyance. Let the relevant Ministry bring a White Paper here so that we can discuss retrenchment in this country before he implements his decision.

Mr. Michuki: Mr. Deputy Speaker, Sir, while I accept the suggestion by the hon. Member, I want to avoid the indecisiveness that took place in the last ten years. No decisions were made then, either to move forward or sideways. That indecisiveness put all these companies in danger. The issue is, and I suggest to the hon. Member, what I should be urged to do is to put up a human face in the whole of this exercise and to ensure that those who are retrenched are actually given the opportunity to retire comfortably.

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

(Laughter)

Mr. Deputy Speaker: No! Next Question, by Mr. B. Mganga. Mr. Mganga, you scared everyone here. That is why we cannot oblige.

Mr. Mganga: Mr. Deputy Speaker, Sir, I can remember that we agreed in this House that I am Mr. Mganga and he is Mr. Mwandawiro. That is for the purpose of clarity.

Mr. Deputy Speaker: Mr. Mwandawiro Mganga is sitting down and Mr. Boniface Mganga is now asking the Question!

DISRUPTION OF TRAIN
SERVICE IN VOI

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

(a) Is the Minister aware that following the wash-away of the railroad between Voi and Taveta, train services have been interrupted since 30th March, 2004?

(b) Is he further aware that to date, no action has been taken to repair the rail, therefore, leading to serious disruption of business activities between Voi and Taveta?

(c) When will the railroad be repaired?

The Minister of Transport and Communications (Mr. Michuki): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am aware that a six kilometres section of the Voi- Taveta line, between Kilometres 112 and 118, was washed away during the recent two unprecedented heavy rain downpours in the area. The first downpour damaged the line between Kilometres 116.7 and 118.8 while the second downpour, which occurred on 29th March, 2004, destroyed the repair works that had been undertaken on the damaged section.

(b) The damage was reported the same day it occurred and repair works on the damaged section commenced immediately. As of today, two kilometres of the damaged six kilometres has so far been satisfactorily repaired to approved standards for safe passage of trains running over the line. Work is still in progress.

(c) I wish to confirm that full repairs on the damaged six kilometre line, barring any factors beyond any human control, are expected to be completed by 29th April, 2004 with full train services resuming immediately thereafter.

Mr. Mganga: Mr. Deputy Speaker, Sir, as you have heard, from the time the railway was washed away and the date the Minister has said the repairs will be completed, is a whole month. This is the main lifeline of businessmen between Voi and Taveta. Could the Minister explain why no immediate action was taken? Two weeks down the line, until last week on Thursday, nobody had gone to repair the railroad. Again, is it possible that while the railroad remains unserviceable, the Corporation could make use of their lorries to transport goods that are rotting in Taveta to Voi?

Mr. Michuki: Mr. Deputy Speaker, Sir, I do not think I should dwell on history. But remember, Kenya Railways Corporation is actually insolvent. If it was a private company rather than a Government parastatal, it would have been wound up before the NARC Government came to power. But, within the last one year-and-a-half, we have tried very hard to raise funds to meet the salaries of the members of staff. Consequently, therefore, the Kenya Railways Corporation (KRC) must look for monies to be able to meet those unforeseen developments, such as what has happened on the Voi-Taveta line. That is an unforeseen happening; for which there was no budget at all, and, consequently, the delay, which we accept as legitimate.

Mr. Deputy Speaker: Next Question by the Member for Samburu West, Mr. Leshore.

Mr. Lesrima: Mr. Deputy Speaker, Sir, I am the Member for Samburu West, not Mr. Leshore! He is the Member for Samburu East!

Mr. Deputy Speaker: Order! Mr. Leshore is present! Order! Order, now! Who is the hon. Member for Samburu East?

Hon. Members: Mr. Leshore!

Mr. Deputy Speaker: Then there was a typographical error, I beg your pardon.

Proceed, hon. Member for Samburu East, Mr. Leshore!

Mr. Leshore: Thank you very much, Mr. Deputy Speaker, Sir, for pointing out that error, because I am the Member for Samburu East.

An hon. Member: Then ask your Question!

OUTBREAK OF FOOT AND MOUTH
DISEASE IN SAMBURU DISTRICT

Mr. Leshore: Mr. Deputy Speaker, Sir, I beg to ask the Minister for Livestock and Fisheries Development the following Question by Private Notice.

(a) Is the Minister aware that there is an outbreak of foot and mouth disease in Samburu District?

(b) What urgent action is he taking to vaccinate all the animals in the District and to avail vaccines?

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

(a) Yes, I am aware that there has been an outbreak of foot and mouth disease in Samburu District, as per the reports received from Loroki, Kirisia and Wasu Divisions. Samples were collected and submitted to the Reference and Diagnostic Laboratory at Embakasi in Nairobi for classification in order to help in identifying which type of the FMD Virus was affecting the animals and also to determine the type of vaccine to be used. The results were all negative. However, this did not mean that the disease was not there. The clinical signs were indicative of the disease. It is possible that the livestock owners washed the animal wounds with chemicals such as magadi soda that destroyed the virus, making it difficult to isolate the virus.

(b) The following are the measures the Ministry has taken to prevent the spread of the disease within and outside the district---

Mr. Deputy Speaker: Order, Members! Please consult in lower tones while the Minister is giving his answer.

The Minister for Livestock and Fisheries Development (Mr. Munyao): Firstly, to arrest the spread of the disease, provisional quarantine has been imposed on the affected divisions, that is Loroki and Kirisia with effect from 6th January, 2004, and Wasu Division with effect from 16th March, 2004. No animals and their products are supposed to be moved until the disease is controlled. Any movement should be done through the authority of the Veterinary Department.

Secondly, Mr. Deputy Speaker, Sir, a vaccinating campaign programme has been organized in the district, and is going on in the affected areas. Already, the District Veterinary Officer has been provided with 3,000 doses of the Trivalent FMD Vaccine from Kabete on 14th April, 2004. A further 20,000 doses will be delivered to the district by 27th April, 2004. This will help to increase immunity levels of the cattle against the disease and stop any further spread of the infection.

Mr. Leshore: Mr. Deputy Speaker, Sir, I think the Minister is not serious with this issue, because there were vaccines which were taken to Gwamba and Ewaso Division of my constituency. But after a few animals had been vaccinated, the officers ran out of the vaccine. Could the Minister tell us now when he actually sent the vaccines to Samburu District because, when I left the district two weeks ago, there were no vaccines there?

Mr. Munyao: Mr. Deputy Speaker, Sir, on 14th April, 2004, we sent 3,000 doses and on Tuesday, 27th April, 2004, a further 20,000 doses will be sent to this area.

Mr. Mbai: Mr. Deputy Speaker, Sir, this outbreak is not only confined to Samburu East Constituency. In my constituency, farmers rely heavily on their bulls to service their herds, they have not been able to do so because of this disease. What plans does the Minister have to curb this disease countrywide?

Mr. Munyao: Mr. Deputy Speaker, Sir, I do not want to mislead the House. If the hon. Member has cited any signs of the disease, let him bring the Question and we will go there and make a check-up. In any case, we are set to check the outbreak of diseases because we are determined to make sure that we have healthy animals.

Mr. Lesrima: Mr. Deputy Speaker, Sir, there is a serious problem of foot and mouth disease in the country because, although vaccination is carried out, the disease re-appears again. Is the Minister confident that the vaccine, which is either manufactured by Kenya Veterinary Vaccines Production Institute (KEVEVAPI) or Kenya Agricultural Research Institute (KARI) scientists, is able to identify or target the various diseases; whether it is SAT1, SAT2, SAT0 or whatever SAT? Every time we vaccinate the cows, the disease recurs. If the Minister does not think it is a serious

matter---

Mr. Deputy Speaker: Order, Mr. Lesrima! It is Question Time, and when you ask a question, you should allow the Minister to answer it.

Mr. Munyao: Mr. Deputy Speaker, Sir, I take the hon. Member's concerns very seriously. What we can do as a Ministry to avoid Questions coming from each constituency is to request for information from all the districts, and then I will make a comprehensive Ministerial Statement concerning the outbreak of foot and mouth disease in all the areas.

Mr. Deputy Speaker: Last question, Mr. Leshore!

Mr. Leshore: Mr. Deputy Speaker, Sir, could the Minister tell us why they are not vaccinating the animals in order to prevent the disease instead of waiting for the disease to recur again? When will the quarantine be removed so that we can be able to sell our animals?

Mr. Munyao: Mr. Deputy Speaker, Sir, we cannot have it both ways. When we want to save the animals, we must impose the quarantine. We must ensure that the disease is contained. So, the Ministry is committed to wiping out the disease. After that, it will lift the quarantine. It is also in our interest to ensure that pastoralists benefit from their livestock.

Mr. Deputy Speaker: Mr. Minister, the concern from Mr. Lesrima and Mr. Leshore is preventive vaccinations. What programme does the Ministry have to vaccinate animals throughout the country against the Foot and Mouth Disease?

Hon. Members: He is evading the Question!

Mr. Munyao: Mr. Deputy Speaker, Sir, I am not evading the Question. Our Government has been in power for only 16 months. The programme is on. If there were animals which were sick two years ago, we are not responsible for that. I will bring a Statement here to assure the House that we will vaccinate all the livestock in the country.

Mr. Deputy Speaker: Next Question, Mr. Rotino!

CLEAN WATER FOR SIGOR RESIDENTS

Mr. Rotino: Mr. Deputy Speaker, Sir, I beg to ask the Minister for Water Resources Management and Development the following Question by Private Notice.

(a) Is the Minister aware that the residents of Sigor Township have gone without clean drinking water for the last two weeks yet the Government spent Kshs670,000 to repair the water intake in November, 2003?

(b) What urgent plans does the Ministry have to ensure that the residents receive clean drinking water to avoid waterborne diseases during the current rains?

The Minister for Water Resources Management and Development (Ms. Karua): Mr. Deputy Speaker, Sir, I beg to reply.

(a) Yes, I am aware that the residents of Sigor Township have gone without clean since 5th April, when the main pipeline of Sigor Water Supply was washed away following heavy rains.

(b) The Ministry's staff is already working at the site repairing the main pipeline, which will also be anchored and protected to minimise chances of being washed away by floods in the future. It is expected that clean water supply to the residents of Sigor will be restored when the on-going work is completed by 7th May. In the meantime, the Ministry has made arrangements to provide clean water to the residents using a water bowser.

Mr. Rotino: Mr. Deputy Speaker, Sir, the Minister has completely given a wrong answer. First of all, I want to inform her that the main pipeline of Sigor Water Supply was not washed away on 5th April, but on 15th March. Secondly, there is no work going on at the moment. Thirdly, the water bowser she has talked about is not even in Sigor at the moment. I called Sigor Township 30

minutes ago and I was informed that it is not there. The water bowser is still in Kapenguria. Could the Minister tell the House how much money she has sent to go and do the works she has talked about?

Ms. Karua: Mr. Deputy Speaker, Sir, may I begin by saying that arrangements have been made for the bowser to be taken to Sigor immediately. I believe it is in Sigor. The hon. Member cannot contradict that while sitting in Nairobi!

Mr. Rotino: On a point of order, Mr. Deputy Speaker, Sir. The Minister has made a serious allegation. I made a telephone call to Sigor Township at 1.30 p.m.

Mr. Deputy Speaker: What is the point of order?

Mr. Rotino: Mr. Deputy Speaker, Sir, why is the Minister misleading the House? Is she in order to conclude that I am not aware of what is going on in Sigor Township, and yet I know more than she knows?

Ms. Karua: Mr. Deputy Speaker, Sir, if the hon. Member has the answer, then I may not need to answer him, but the Question belongs to the House. So, I will proceed to answer the House.

Mr. Deputy Speaker Sir, I will restate that we have made arrangements for the water bowser to be taken to Sigor. The repair works are on-going and the estimate for the damage is Kshs200,000. That is what we have set out and works are on-going. If the physical work has not started on the ground, then procurement for the necessary materials has started and that to us is work commencing.

Mr. Deputy Speaker: Next Question, Mr. Ndolo!

PROBE AGAINST KISS FM

Mr. Ndolo: Mr. Deputy Speaker, Sir, I beg to ask the Minister for Tourism and Information the following Question by Private Notice.

(a) Why is KISS FM, a private radio station under probe?

(b) What measures is the Minister taking against other media houses, which have in the past defamed innocent people?

The Minister for Tourism and Information (Mr. Tuju): Mr. Deputy Speaker, Sir, I beg to reply.

(a) Contrary to the impression that has been given by a section of the media, KISS FM is not under probe. For the record, I take this opportunity to inform the House that what I constituted was a panel to advise me and not to probe.

(b) My Ministry is concerned, like many hon. Members have expressed to me before, about the lack of professionalism and responsibility in the print and the electronic media. It is in this connection that I constituted an advisory panel to listen to the public views and grievances on some of the broadcasting stations, with a view to making recommendations which will inform the establishment of a regulatory system in this sector.

Mr. Deputy Speaker: I thought the Minister was going to raise the issue of *sub judice* because this matter is in court. It looks like he is happy with that.

Mr. Maore: Mr. Deputy Speaker, Sir, what is the Minister going to do in the light of several stations having taken up profanity and vulgarity as their fashion in which they get audience? What steps is the Minister taking to declassify some as stations for adults only, so that people do not have to listen to them with their children?

Mr. Tuju: Mr. Deputy Speaker, Sir---

Mr. Arungah: Mr. Deputy Speaker, Sir, I may be new, but my understanding is that, that Question belongs to Mr. Ndolo. He was the Questioner.

Mr. Deputy Speaker: Order, Mr. Arungah! I know what you are saying. The Question does

not belong to Mr. Ndolo, but to the House. The practice is that the Questioner is given the first chance to ask a supplementary question. It was an omission, but we will come back to him.

Mr. Tuju: Mr. Deputy Speaker, Sir, I note with gratitude the comments by the hon. Member about the vulgar language, disrespectful, insulting and inflammatory comments that come from some of the FM stations. I have acted with great restraint because I believe in the freedom of the Press. That is why I decided that, before I take any drastic action, I listen in fairness to different opinions because where I come from, I may consider something vulgar, but from another point of view, it may not be vulgar. So, rather than only rely on my subjective decision, based on where I come from, I needed to hear it from other people as well.

Mr. Ndolo: Thank you, Mr. Deputy Speaker, Sir. Could the Minister tell this House, why after being ordered by the court to stop the probe against the station, he chose to defy the order? Are we having a new design from this Government?

Mr. Deputy Speaker: Order, Mr. Ndolo! You have asked the question. Let the Minister answer.

Mr. Tuju: Mr. Deputy Speaker, Sir, in my first answer, I said that there is no probe. You cannot stop me from doing what I am not doing. If I am sitting, you cannot stop me from standing. I have clearly said that there is no probe. So, how do you stop me from doing something which I am not doing in the first place?

Dr. Godana: Mr. Deputy Speaker, Sir, in one of his answers, the Minister referred to inflammatory statements from FM radio stations. Indeed, in the wake of the Bomas debacle on the Constitution, everyone is aware that a number of FM radio stations have been using a language which is virtually tantamount to a call to arms.

Mr. Deputy Speaker, Sir, what preventive and cautionary measures is the Government taking to ensure that this does not take us down the road to inter-communal conflicts?

Mr. Tuju: Mr. Deputy Speaker, Sir, coming from a media background, I know how destructive it can be and agree with the hon. Member that the amount of freedom we give to the Press should go hand in hand with some Press responsibility. As far as I am concerned, there will be no sacred cows. One of the things I have done is to seek advice, so that my actions are balanced, informed and fair.

Mr. Ndolo: Mr. Deputy Speaker, Sir, one of the demands of the Minister, who is the complainant, is that the lady presenter be sacked!

The Assistant Minister for Foreign Affairs (Mr. Wetangula): On a point of order, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Mr. Ndolo, there is a point of order being raised!

The Assistant Minister for Foreign Affairs (Mr. Wetangula): Mr. Deputy Speaker, Sir, we all know that hon. Karua has a case pending in court. The rules of this House prevent us from discussing matters that are in court. Is the hon. Member in order to raise issues concerning a matter that is pending before a court?

Mr. Deputy Speaker: Indeed, I saw that danger. Mr. Ndolo, you will ask a question that does not concern that issue. You cannot ask a question on that matter directly because it is in court. If you have another question which does not relate to that, you can ask it.

Mr. Ndolo: Mr. Deputy Speaker Sir, why does it become a problem when a Minister is mentioned negatively?

Mr. Deputy Speaker: Does that mean that you have no question?

Mr. Ndolo: Mr. Deputy Speaker, Sir, I have a question.

Mr. Deputy Speaker: Ask the question then!

Mr. Ndolo: Mr. Deputy Speaker, Sir, why is it that no action has been taken before when other Members of Parliament were mentioned negatively on radio while, in this case, action has been taken?

(Applause)

Mr. Tuju: Mr. Deputy Speaker, Sir, I do not wish to comment on this matter because it is before a court.

Mr. Deputy Speaker: That is the end of Question Time.

POINTS OF ORDER
SHORTAGE OF MAGISTRATES

Mr. Sasura: On a point of order, Mr. Deputy Speaker, Sir. I rise to seek a Ministerial Statement from the Minister for Justice and Constitutional affairs. This Government promised to effect a radical surgery in the Judiciary once it came into power. We know very well that--

Mr. Deputy Speaker: Mr. Sasura, you are raising a very important point. I just want to make sure that someone is listening. Is there someone here from the Ministry of Justice and Constitutional Affairs listening?

The Assistant Minister for Justice and Constitutional Affairs (Mr. Githae): Mr. Deputy Speaker, Sir, I am here.

Mr. Sasura: Mr. Deputy Speaker, Sir, I stand to seek a Ministerial Statement from the Minister for Justice and Constitutional Affairs. The Government promised a radical surgery in the Judiciary immediately it took over power. We know very well that, even in a medical operating theatre, when surgery is done hurriedly, the chances of it being successful are minimal. That seems to be happening in our Judicial system now.

I was at the Kibera Law Courts in Nairobi yesterday. I was amazed that Kenyans are not getting proper services in our law courts because of shortage of magistrates. There are five law courts in Kibera with only three magistrates. One lady magistrate was hearing court pleas in two courts, and was also the one hearing cases. In view of this, I am also aware that the same thing is happening in Makadara and also at the High Court. Could the Minister give a Ministerial Statement and tell us why Kenyans are not getting adequate services from our courts?

Mr. Deputy Speaker, Sir, secondly, now that jobs have been advertised for the post of magistrates and the responses received were not enough, it is very clear that lawyers are not applying for employment as magistrates. What is the Minister doing to avert this crisis in the corridors of our Judiciary?

The Assistant Minister for Justice and Constitutional Affairs (Mr. Githae): Mr. Deputy Speaker, Sir we shall issue the Ministerial Statement sought on Thursday.

HARASSMENT OF KWALE RESIDENTS

Mr. Kombe: On a point of order, Mr. Deputy Speaker, Sir. I rise to seek a Ministerial Statement from the Minister in charge of internal security. As a matter of security concern, could the Minister give a Statement on the on-going harassment of Kwale District residents and residents in other parts of the Coast Province in connection with the oathing that is said to be going on? Many people have been harassed, particularly traditional healers and herbalists. They cannot go about their business because of the alleged oathing. I am raising this issue because ---

Mr. Deputy Speaker: Order, Mr. Kombe. You are asking for a Statement. Why do you not wait until the Statement comes and then you can issue what appears to be--

Mr. Kombe: Mr. Deputy Speaker, Sir, I am not through with what I was saying.

Mr. Deputy Speaker: Then complete what you were saying!

Mr. Kombe: Mr. Deputy Speaker, Sir, I am about to finish. I would also like the Minister

to give reasons why two ex-army officers were bonded to keep the peace for two years for reasons connected with the alleged oath-taking.

KILLING OF CHILD BY
ROUGUE ELEPHANT

Mr. Mbai: On a point of order, Mr. Deputy Speaker, Sir. I rise to seek a Ministerial Statement from the Minister for Environment, Natural Resources and Wildlife about an elephant which has invaded Masinga Location, Masinga Constituency, Kyangosi Village from the adjacent Mwea National Park. As of yesterday, the animal had killed one child and seriously injured another one.

OPERATION OF THE PUBLIC AUDIT ACT

Mr. Omingo: On a point of order, Mr. Deputy Speaker, Sir. On Tuesday, I rose on a point of order to seek a Ministerial Statement from the Minister for Finance regarding the operation of the Public Audit Act, which has come into force. As we talk today, we do not know if the Government is following the Constitution which it swore to protect. We are not too sure who is supposed to sign Exchequer issues. What is happening could be illegal and is going to cause this country problems.

(Mr. Mbai stood up in his place)

Mr. Deputy Speaker: Mr. Mbai, I gave you a chance. Do we have someone here from the Ministry of Finance? That Statement is overdue. We should have it latest on Tuesday.

SHOOTING OF BUS BY
ADMINISTRATION POLICEMEN

Mr. Sugow: On a point of order, Mr. Deputy Speaker, Sir. I rise to seek a Ministerial Statement from the Minister in charge of internal security on an incident that took place on Monday, the 19th of this month. There was a shoot-out involving administration policemen, who were on a bus which was travelling from Garissa to Nairobi. This incident took place at about 10.00 a.m. The bus was somewhere between the bridge on the Tana River and Madogo Trading Centre. There was no official police road-block. The administration policemen, who fired at the bus, were not in uniform but in civilian clothes. We do not understand the circumstances surrounding this shooting. The driver of the bus almost lost control and endangered the lives of his passengers.

Mr. Ndambuki: Mr. Deputy Speaker, Sir, the Minister for Livestock and Fisheries Development told me he had a Ministerial Statement on the KMC for today.

Mr. Deputy Speaker: Mr. Munyao, where is the Ministerial Statement which you promised for today on KMC? Do you want some more time?

The Minister for Livestock and Fisheries Development (Mr. Munyao): Mr. Deputy Speaker, Sir, it is almost 4.00 p.m.

Mr. Deputy Speaker: In any case we have not come to Ministerial Statements, Mr. Ndambuki. I am sure there are several Statements coming.

COMMUNICATION FROM
THE CHAIR
DEFERMENT OF MOTION ON KFF

Mr. Deputy Speaker: Hon. Members, before we go to the next segment of Ministerial Statements, let me issue this small communication.

Hon. Members, you will recall that yesterday I gave a communication indicating that I had allowed Mr. Daniel Khamasi to raise a matter regarding Question No.014 today on KFF. In view of the fact that the Minister for Gender, Sports, Culture and Social Services is currently out of the country, and considering that he had answered the Question, I rule that the matter on the Order Paper be deferred for the next two weeks to await his return. Consequently, the Motion will not be moved today as earlier indicated. We will have Ministerial Statements. We start with the Minister for Foreign Affairs.

MINISTERIAL STATEMENTS

INTRODUCTION OF VISAS TO SOUTH AFRICA

The Assistant Minister for Foreign Affairs (Mr. Wetangula): Mr. Deputy Speaker, Sir, the Member of Parliament for Kikuyu asked for a statement from my Ministry about visas to South Africa and here it is.

Kenya and the Republic of South Africa established diplomatic relations in 1994. It was agreed that the nationals of both countries would not require entry visas either way. This practice continued until 2000 when the Republic of South Africa revoked the agreement, and introduced visa requirements for Kenyans. It also granted free entry for Kenyans going to South Africa for less than 30 days.

Mr. Deputy Speaker, Sir, in 2003, the Government of South Africa introduced stringent visa rules requiring applications to be submitted five working days prior to the date of travel. It also imposed a requirement for a deposit of US\$3,000 for a certain category of businessmen before being granted business visas. This affected particularly business people from Kenya dealing in curios to South Africa.

Mr. Deputy Speaker, Sir, the South African Government also imposed a refundable repatriation fee of US\$600 on Kenyan students going to study in South Africa. Apart from these restrictions running against the interests of our country, we have maintained excellent relations with South Africa.

[Mr. Deputy Speaker left the Chair]

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

Mr. Temporary Deputy Speaker, Sir, it is against this that the Government decided to impose a fee of US\$50 on South Africa nationals coming into Kenya with effect from 1st April, 2004. In retaliation, South Africa suspended the issuance of visas to Kenyans who wish to travel to that country for a brief period. In order to find an amicable solution to this misunderstanding, the Government of Kenya has suspended the decision to charge fees and restored the status quo. This will allow the two sides to negotiate and come up with a better formula to deal with travellers either way.

We regret any inconvenience caused to Kenyans travelling to South Africa, but I would like the House to appreciate the difficulties being experienced by our nationals who have to undergo very severe hurdles before they can travel to South Africa. It is also true, as Mr. Muite said, that we have many more Kenyans travelling to South Africa than South Africans coming to Kenya. In fact, right now there are about 200 Kenyans queuing everyday for visas to go to South Africa. We will ensure that they are not unduly inconvenienced.

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, as you have heard from the Assistant Minister, and I thank him for that clarification, all the South Africans had done was to request for visa fees from only business travellers and not ordinary Kenyans. Kenya imposed visa fees for all travellers from South Africa, business and ordinary. As the saying goes, when two elephants fight, it is the grass which suffers. Instead of these retaliations between the two countries, why did the Ministry of Foreign Affairs not summon or call the South African ambassador to its offices to find an amicable solution instead of taking unilateral decisions? I am sure that, if they did that, some solution acceptable to both sides would have been found without suspending issuance of visas.

When I was raising this issue, there were 400 Kenyans stranded here in Nairobi at the Embassy of South Africa, who were not getting visas. Why did the Ministry of Foreign Affairs not attempt an amicable solution first?

The Assistant Minister for Foreign Affairs (Mr. Wetangula): Mr. Temporary Deputy Speaker, Sir, for the record, the bulk of travellers from Kenya to South Africa are students and business people. These are the categories that are affected by the restrictions by the South African Government. It is, however, regrettable that the possibility of an amicable solution was not explored before the imposition of visa fees. In the circumstances, I think it was justified because it was necessary that the Government of Kenya also imposed some restrictions. In fact, our restrictions were far less severe than what was being imposed on our nationals.

Mr. Kaindi: Mr. Temporary Deputy Speaker, Sir, we, as a House, are requesting the Ministry to clarify the position with respect to how it will deal with visa issues because it is the greatest public relations office for our country. We have had problems with the embassy of the United States and the British High Commission, where you will find long queues and inefficiency. Kenyans have asked for visas from these embassies to go for studies and other very important assignments. What is the Ministry doing to ensure that it acts to solve these problems for Kenyans, instead of being reactive, so that we know the policy once and for all?

The Assistant Minister for Foreign Affairs (Mr. Wetangula): Mr. Temporary Deputy Speaker, Sir, my Ministry is as concerned as the hon. Members about this issue of visas. However, we have to deal with this issue on a case-by-case basis. We cannot have a blanket policy because each country has different rules and regulations. As a matter of fact, because of the matters raised in this House by the hon. Members, our intervention as a Ministry has reduced the queues at the British High Commission and the American Embassy. The processing of visas is now faster; there is less inconvenience to our nationals. Above all, we are trying to explore a possibility of situations where visa applications for students are turned down. We want to see whether the exorbitant fees they pay for applications can be refunded to them.

Mr. Angwenyi: Mr. Temporary Deputy Speaker, Sir, I am really surprised, in fact shocked, that this House would be concerned about relaxing the visa requirements for South Africans travelling to Kenya. The trade imbalance between Kenya and South Africa is one to 20 in favour of South Africa. South Africa has imposed very restrictive measures against our exports of agricultural products when, in fact, we are importing eggs, oranges and onions. If you could--

The Temporary Deputy Speaker (Mr. Khamasi): Order, Mr. Angwenyi! Seek clarification from the Assistant Minister!

Mr. Angwenyi: Mr. Temporary Deputy Speaker, Sir, could the Ministry of Foreign Affairs clarify why we should relax the visa requirements for South Africans when we already have a trade imbalance of one to 20 in favour of South Africa?

The Assistant Minister for Foreign Affairs (Mr. Wetangula): Mr. Temporary Deputy Speaker, Sir, I did say that Kenyan businessmen, especially curio traders, have a restriction of depositing a colossal sum of US\$3,000 before they are given visas to South Africa. We, as a Government, find this onerous and unacceptable. We are currently discussing with the South African High Commission to see how this fee can be waived. Equally, a demand of US\$600 from

every student as repatriation deposit fees is onerous to the parents who take their children to South Africa. We are equally concerned, and we are discussing with them to see how it can be waived.

The Temporary Deputy Speaker (Mr. Khamasi): Next Ministerial Statement by Mr. Munyao!

The Minister for Livestock and Fisheries Development (Mr. Munyao): Mr. Temporary Deputy Speaker, Sir, time is not on our side!

The Temporary Deputy Speaker (Mr. Khamasi): In this business, time is always on our side. Proceed!

RE-OPENING OF KENYA
MEAT COMMISSION

The Minister for Livestock and Fisheries Development (Mr. Munyao): Mr. Temporary Deputy Speaker, Sir, let me begin by giving a brief background of the Kenya Meat Commission (KMC).

The KMC was established in 1950 by an Act of Parliament, Cap. 363 of the Laws of Kenya, to promote the country's meat industry through purchase and slaughter of livestock and marketing of livestock products. An additional role of KMC was to act as a strategic drought management tool and as a buyer of a last resort. The KMC performed poorly, especially during the period from 1986 to 1991 and was unable to realise operating profits due to a number of reasons. The loss of the European Union (EU) export markets, due to disease outbreaks, increased local competition after the entry of private sector abattoirs, obsolete equipment and technology and, finally, mismanagement among others.

The factory was ultimately closed in 1992 for major rehabilitation works. The Ministry of Livestock and Fisheries Development has reviewed the position of KMC and has considered, among other things, the following as justifications for its re-opening.

It will be more beneficial to privatise KMC as a going concern as this would readily attract the private sector and safeguard the interests of pastoralists.

Reopening of KMC will enhance incomes of communities in the ASAL areas and thereby help integrate them in the mainstream national economy.

The Public Investments Committee (PIC) in March 1999 came up with various recommendations towards the re-opening of KMC. These were:-

The Government should pay off all the loans and other liabilities owed by KMC to the National Bank of Kenya (NBK) and other organisations immediately. This had to be done before 30th September, 1999, to facilitate immediate lifting of receivership claims on KMC by NBK and immediate removal of the Receiver Manager, Mr. Andrew Gregory. We have already removed him.

The Government should take immediate steps before 31st December to revive KMC by appointing a new management, injecting new capital and make it an operational going concern. Only after this action should the Government consider privatisation of KMC. Arising from the recommendations, my Ministry has started the process of revival of KMC as an operational going concern. The funds received from Treasury for this process so far amount to Kshs247 million. During the Financial Year 2002/2003, we received Kshs47 million. In the year 2001/2002, we received Kshs67,700,000 and Kshs132,240,000 respectively. The total was Kshs247 million.

The payments made so far to unsecured creditors, including utilities, merchants, statutory deductions, final dues for former employees amount to Kshs101,236,386. This leaves a gross balance of Ksh145,763,614. Out of this, a sum of Kshs99,038,890 is now available to start operations and Kshs47,724,724 for running the Board.

Mr. Temporary Deputy Speaker, Sir, the legality of the current KMC receivership has been questioned by my Ministry and also PIC. My Ministry has sought the necessary legal opinion from the Government's Legal Advisor who is the Attorney-General. Evidence shows that there was the

first borrowing from the NBK in 1983, of Kshs160 million, which the KMC Board approved and a debenture prepared and registered in 1984. Several KMC assets were used as security. This funding was fully paid by the Government in July, 1993.

In 1987, the KMC Board was dissolved and a caretaker committee appointed to run KMC. In the absence of a Board, the then Ministry of Livestock Development and Treasury arranged for an overdraft to allow continued operations. In the absence of a Board, the Ministry and Treasury arranged for a second borrowing amounting to Kshs120 million. This advance is estimated to have risen to Kshs2 billion to date.

After a recent round table meeting between the Solicitor-General, the Permanent Secretary in the Ministry and members of staff, on 8th March, 2004, it was concluded that the NBK was not a valid debenture holder to the extent that there is no legal charge on KMC properties for the second borrowing.

My Ministry, therefore, complied with the recommendations from PIC as enumerated in paragraph four above. It is expected that Treasury will assume all the losses and other liabilities owed by KMC to NBK and other organisations on account of Government guarantee.

Mr. Temporary Deputy Speaker, Sir, the Government has paid off unsecured creditors except interest claims which are subject to arbitration before payment. The Receiver Manager, Mr. Andrew Gregory, has been removed and replaced with an internal joint receivership. A proposed list for an Interim Board of Commissioners has been forwarded to the Office of the President as per the Act. The Ministry has written to the Commissioner of Lands with regard to the 2,500 acres sheep and goats land allocated to the Kenya Meat Commission (KMC). The Receiver Manager has paid the Commissioner of Lands for the processing of the title deeds.

On the repossession of land allocated to private individuals, the Ministry has communicated to the Commissioner of Lands, who is addressing the matter in the context of the Presidential Commission on Illegal Land Allocations. It is hoped that the protecting receivership will then cease, given that the unsecured creditors have been paid.

Arising from the proceedings, and in exercise of the powers given to me by the KMC Act, Cap.363, I am in the process of appointing an Interim Board of Commissioners to operationalise the KMC in readiness for privatisation and divestiture. My Ministry wrote to the Head of the Civil Service and Secretary to the Cabinet, on 30th March, 2004, forwarding a progress report on the steps taken towards the re-opening of the KMC. In the same brief, there was a list of proposed members of the Interim Board of Commissioners. The Head of the Public Service and Secretary to the Cabinet has since responded to the letter and advised against the appointment of an Interim Board until the issue of receivership between the National Bank of Kenya (NBK) and the KMC is resolved.

My Ministry is in the process of organising a joint meeting between the Ministry of Finance, the NBK, the Attorney-General and the Office of the President, to resolve the outstanding issues of receivership and subsequently appoint a Management Board. I intend to hold the meeting before the end of this month and expect the issues not to take more than one month thereafter.

Mr. Temporary Deputy Speaker, Sir, there being no further questions, I thank you very much.

The Temporary Deputy Speaker (Mr. Khamasi): Order! Order, Mr. Munyao! The Chair has not decided on that!

Mr. Ndambuki: Mr. Temporary Deputy Speaker, Sir, I thank the Minister for that Ministerial Statement. It is really unfortunate that such a Ministerial Statement has come from him. On many occasions, since last year, he has assured this House that he is going to re-open the KMC. It seems as if there is no hope of the KMC being opened. Is it the Minister's position that there is no hope of the KMC being opened? He has not said whether he will actually open it. He has not given a date. He has also said that the Head of the Civil Service and Secretary to the Cabinet has discouraged him from appointing an Interim Board of Commissioners. That means that he does not

have the mandate to tell Kenyans that the KIMC will be re-opened. Could he tell us whether he is going on with the plans to have the KMC re-opened or not? Also, before he responds---

The Temporary Deputy Speaker (Mr. Khamasi): Order! Order! Mr. Ndambuki, you have made your point.

The Minister for Livestock and Fisheries Development (Mr. Munyao): Mr. Temporary Deputy Speaker, Sir, I have issued a six-page-long Ministerial Statement!

The Temporary Deputy Speaker (Mr. Khamasi): That answer was too long for a very simple question!

The Minister for Livestock and Fisheries Development (Mr. Munyao): Mr. Temporary Deputy Speaker, Sir, according to the law regarding the operations of parastatals, before a Minister appoints Commissioners or Boards, he is supposed to consult the Office of the President. Mr. Ndambuki was a Minister in the previous regime, and they never used to refer to the law. We, in the NARC Government, refer to the normal procedure. So, that is what we are doing.

Mr. Kaindi: Mr. Temporary Deputy Speaker, Sir, could the Minister clarify two points. One, he has stated categorically that the debenture that the NBK continues to purport is the reason for which the KMC cannot be re-opened, to which he has alluded that only Kshs160 million was borrowed which, through some crazy calculations, has risen to Kshs2 billion. Further, could he clarify that it is actually not because of his Ministry's decision, but advice from the World Bank, particularly through the Country Director, that we do not re-open the KMC?

The Minister for Livestock and Fisheries Development (Mr. Munyao): Mr. Temporary Deputy Speaker, Sir, we have checked all the borrowing details, and we are clear that as of now, there is no debenture between the KMC and the NBK. The issue of interest will be discussed, but the principal amount has been paid in full. So, there is no debenture. In fact, the Commissioner of Lands withdrew the title deeds of those parcels of land that were held by the bank as security for the loan, and allocated the same to politically-correct individuals.

Dr. Godana: Mr. Temporary Deputy Speaker, Sir, I fully agree with the Minister that there is no valid debenture because the bank, willingly, released titles to the land which it had held as security. The question the Minister has been asked is actually whether the KMC is being opened and if so, when.

Mr. Temporary Deputy Speaker, Sir, this Minister, for the last one year, since he was an Assistant Minister, has been "singing" here that the KMC would be opened soon, and yet we know that the donors have said: "Do not touch it with a long pole." The Minister must know that for a Member of this House to give information which he knows not to be correct is tantamount to contempt of Parliament. We may invoke those rules. So, could he tell us categorically whether the KMC will be re-opened or not? He should also tell us when it will be re-opened. That is all we want to know.

The Minister for Livestock and Fisheries Development (Mr. Munyao): Mr. Temporary Deputy Speaker, Sir, I promised Kenyans in this House that the KMC will be re-opened. I know very well that Dr. Godana was the Minister for Agriculture in the previous Government. However, the level of authority then was different. There is now a different level of authority amongst Ministers. I recall that when he was the Minister, I asked him when the KMC would be re-opened, and he gave me some date, which was never to be. That was about two years ago. Having said that, I would like to assure this House that the KMC will be re-opened, and it is a Kenyan asset.

An hon. Member: When?

The Minister for Livestock and Fisheries Development (Mr. Munyao): Mr. Temporary Deputy Speaker, Sir, it will re-open as soon as the names of the Interim Board of Commissioners are endorsed. I thought the House would applaud me for paying all the debts owed by the KMC. I have also worked with the Public Investments Committee (PIC), which is a Committee of this House. I

have appointed---

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

The Temporary Deputy Speaker (Mr. Khamasi): Order! Order, hon. Members! Mr. Minister, you realise that Members are very keen. You can see that everybody is now on his feet. They just want to know the approximate date by which the KMC will re-open. Is it going to re-open this year, next year or in 2007? Can you give some indication?

The Minister for Livestock and Fisheries Development (Mr. Munyao): Mr. Temporary Deputy Speaker, Sir, I know that hon. Members want to test the extent of our commitment. The names of the Interim Board of Commissioners are now with the Office of the President. I would like to clear this issue with the Head of State. I am not doing things in the way they used to do. To be clear, the KMC will re-open in the course of this year.

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

The Temporary Deputy Speaker (Mr. Khamasi): Order! Order! Hon. Members, we are not debating this matter. Mr. Ndambuki raised this issue, and the Minister issued a Ministerial Statement. Mr. Ndambuki sought clarification, to which the Minister responded, and we cannot continue with it. So, I will give the last chance to Mr. Kabogo to seek clarification.

Mr. ole Metito: Mr. Temporary Deputy Speaker, Sir, last week there was a Question on KMC.

The Temporary Deputy Speaker (Mr. Khamasi): Order! Wait a minute! Who are you?

Hon. Members: Katoo!

The Temporary Deputy Speaker (Mr. Khamasi): Okay! Proceed!

Mr. ole Metito: Mr. Temporary Deputy Speaker, Sir, last week there was a Question raised in this House on when the KMC would reopen. The Minister told this House that the only issue which was remaining was constituting the Board. Today, he is giving a different story. Why the change?

The Minister for Livestock and Fisheries (Mr. Munyao): Mr. Temporary Deputy Speaker, Sir, I think the rules of this House will have to change so that when I am addressing Mr. Ndambuki, I speak in the Kamba language and when I address Mr. ole Katoo, I speak in the Maasai language. What I said last week, and what I am saying now, is not different at all.

Mr. Temporary Deputy Speaker, Sir, I have even gone further to promise that as soon as I clear the names, which I am going to do at the end of this month, KMC will commence operations. I have even proposed the Commissioners; I have constituted the Board, and done everything. I have even got the money. Can I not be applauded for that?

Dr. Godana: On a point of order, Mr. Temporary Deputy Speaker, Sir. He is taking it like a joke!

The Temporary Deputy Speaker (Mr. Khamasi): No, I will not allow it.

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

The Temporary Deputy Speaker (Mr. Khamasi): I will not allow it, Mr. Muite!

Mr. Muite: It is very important, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Khamasi): What is it? Can you say it?

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, is it in order for the hon. Minister to continue raising the hopes of Kenyans and to mislead this House that they are going to reopen KMC when he is aware of a letter from the country representative from the World Bank telling them that

they must not reopen KMC? I have it here. Is he not aware of this letter?

*(Mr. Muite laid the document
on the Table)*

The Minister for Livestock and Fisheries (Mr. Munyao): Mr. Temporary Deputy Speaker, Sir, that was then. Things have since changed. There is no longer that requirement. That has been waived and we are now on a clean slate. This letter was written in 2003. Are we going to accept another additional letter to be filed in the House? This letter is no longer valid. We are in 2004, and I am assuring the hon. Members. Am I not an honest Minister?

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

BILL

Second Reading

THE PRIVATIZATION BILL

*(The Assistant Minister for Finance
(Mr. Katuku) on 21.4.2004)*

*(Resumption of Debate interrupted
on 21.4.2004)*

The Temporary Deputy Speaker (Mr. Khamasi): Mr. Angwenyi was on the Floor! You still had a balance of ten minutes.

Mr. Angwenyi: Thank you, Mr. Temporary Deputy Speaker, Sir. The Privatization Bill is very important, and I am really surprised that this House is not full today, when we are deciding to give away the assets of this country. I thought this House would have been full today. Maybe we should find out ways of making hon. Members of Parliament remain in the Chamber when we are discussing important matters such as the Privatization Bill.

Mr. Temporary Deputy Speaker, Sir, yesterday I said that as we legislate on the privatization of our assets, we must first find out why we nationalised these parastatals and assets. Did we achieve the objective of nationalization? We should also analyze what benefits we get when we privatise. I have said here before that the type of parastatals we are privatizing, say, for example, the Port of Mombasa, the Jomo Kenyatta International Airport and the Kenya Reinsurance are essential parastatals for this country.

I had given an example of a country which is supposed to be a capitalist country like Australia. The ports in Australia are not nationalised. They are owned by the State of Australia. If you take, for example, the Port of Melbourne and the Port of Sydney, they are owned by the Government. At the Port of Sydney, they have leased out management for a given period. I gave the example of the Port of Dubai which actually earns revenue seven times more than the total revenue of this country, and yet it is owned by the Government of Dubai. I also gave the example of the Port of Singapore which earns in excess of US\$11 billion a year and it is owned by the Government.

Mr. Temporary Deputy Speaker, Sir, we have just been discussing the KMC. The KMC is an essential parastatal for our pastoralists. In fact, it is not only for pastoralists, but all farmers in Kenya who rear animals that can be slaughtered and sold. This country is now being run by the Bretton Wood institutions. It is being run by the World Bank. When we want to do something, we are told that the World Bank does not want us to do it. If we want to do another thing, we are told that the IMF does not want us to do it. Why can we not take cue from former President Moi who

said no to some of these things, and we managed to survive for 12 years, not going under, without the support of IMF and World Bank?

Mr. Temporary Deputy Speaker, Sir, there is no single World Bank programme that is a success story in the world. They cannot state one country that they have developed because of their programmes. We have got many cases of countries which defied the IMF and World Bank and they have been able to develop. I gave the example of Malaysia. I can also give you the example of South Africa. South Africa has not liberalized its exchange regime. It has not liberalized its importation programmes or its export programmes. It has not liberalized agriculture. You cannot export a fruit to South Africa even if you are a member of SADC. What is this hurry that this country wants to sell off its assets; the assets of the people of Kenya? If we must privatize, then in this Bill, we must create safeguards to our assets and save our employment opportunities.

Mr. Temporary Deputy Speaker, Sir, yesterday, you heard a Minister saying that the World Bank has told the Kenya Power and Lighting company, that they must take their chief managers for training for a period of two years. Those are chief managers who are experienced and qualified. They are engineers who are qualified. Some of those graduates may be more qualified than some of those *Wazungus* we want to bring in this country. A few years ago, I saw a case at the Kenyatta National Hospital where the Government imported some managers to manage the Kenyatta National Hospital. They were there for one-and-a-half years, but they were not able to run that hospital. When those people were removed, and a Kenyan was appointed to run the hospital - the former Permanent Secretary, Mr. Meme, although he messed up later - he managed that institution better than the management that we were paying colossal amounts of money.

Mr. Temporary Deputy Speaker, Sir, we have all the experience with the so-called "dream team", which was imposed on Kenyans by the World Bank. What did they deliver to this country except getting a high pay? I was surprised at that time because even the Press never pursued that matter, when we were paying some people Kshs2 million and Kshs3 million a month, and yet they were not delivering any services to this country.

Mr. Temporary Deputy Speaker, Sir, in this Bill, the Minister has allocated himself a lot of powers. He appoints the Commission, directs it on what to do and formulates the regulations to do this or that! What is the point of enacting the Bill if it is going to be the Minister? Why can we not have the Minister do the same things right now without enacting a Bill? What I am saying is that, as we enact this Bill, we must remove some of the responsibilities from the Ministry to this House, where the people of Kenya are represented.

Mr. Temporary Deputy Speaker, Sir, as I said yesterday, this country has got a problem of unemployment. We have many young people in this country who have not been employed since they graduated in 1990. In fact, some even graduated before 1990. Some of them are reaching retirement age before they get a job! The other day, the Minister was saying: "Oh! We have created 400,000 jobs! We have created jobs in Kibera and in Kitutu Chache!" We are talking about formal employment, whereby, at the end of the month, you know you will get Kshs1, Kshs2, Kshs1 million or whatever the amount is. That is formal employment. If we say we are creating jobs without formal employment, the people who commit acts of theft and thuggery can also say they are employed! We must weigh the steps that we are taking to privatise our industries and parastatals, vis-a-vis the job opportunities that we are going to lose.

Mr. Temporary Deputy Speaker, Sir, there was a Question that was answered this afternoon, regarding the retrenchment of workers at Telkom Kenya, where 10,000 people stand to lose their jobs before the end of this year. After some of those people left their universities, colleges and schools, they got jobs with Telkom Kenya. They were assured, according to the laws of this country, that they would remain there until they attain the age of 55 years, unless they commit an offence. Those people are performing, and yet their working life is going to be cut short because of what this Parliament is going to condone. We are told that we cannot privatise Telkom Kenya, Kenya Railways Corporation and National Bank of Kenya (NBK), unless you retrench people. Is

that what this Parliament is for? My people have told me very clearly that I am here to see how we could create jobs for our people, and not how to remove people from jobs. I am asking this House to rise up, put its foot down and say that we can only privatise if we do not lose jobs in those parastatals, and if we own majority shares. We can only privatise through the Nairobi Stock Exchange (NSE), so that our people could get their small shares. If you want to privatise Kenya Reinsurance, instead of giving to a South African agency - and you know the way they look down upon us - we put it in shares of Kshs10 each and tell our people who are growing sugar-cane to get Kshs100 and buy 10 shares. That is the way to privatise. As I support privatisation, we must create clear safeguards and the final mandate must remain in this House.

With those few remarks, I beg to support.

Mr. Oparanya: Mr. Temporary Deputy Speaker, Sir, thank you very much, I stand to support the Bill. The Privatisation Bill was long overdue. We were told by the Minister for Finance that privatisation started in 1991. I understand that 174 parastatals have been sold. The Minister never mentioned how they were sold. He just mentioned that three of them; Kericho Tea Hotel, Milling Corporation of Kenya and the Cashewnuts Factory, were sold for peanuts. What I am asking is this: Are we now going to recover those parastatals, so that they can follow the normal privatisation process? We know very well that those public assets were robbed. The previous speaker has said that foreigners are now pushing us to privatise our assets, so that they can come and control our economy. We have to be very careful.

The Privatisation Bill is not based on any policy. We must have a privatisation policy. This country also needs policies on liberalization and globalisation. It is on that basis that you can come up with a law to back the Privatisation Bill. This Bill is from nothing. It is like somebody in the Ministry of Finance sits down, drafts something and brings it here. You find that even in the Front Bench, the Minister and the Assistant Minister are not there, and we are raising all these issues.

The Assistant Minister for Finance (Mr. Katuku): I am here!

Mr. Oparanya: Oh! You have come? I am sorry. They just discuss these things and bring them here. In fact, the other Government Finance Bill has a lot of mistakes. This Privatisation Bill is better. When a Bill comes here, especially if it affects Kenyans, it must be looked into by all stakeholders. Privatisation is good, but it must be done in a very careful manner, so that we, as Kenyans, do not lose money.

(Loud consultations)

Mr. Temporary Deputy Speaker, Sir, could you protect me, please?

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

Mr. Oparanya: Mr. Temporary Deputy Speaker, Sir, we need to have proper information before any parastatal is privatised. We need all the information before and after. I am glad that there was open bidding in a few companies like Kenya Airways, National Bank of Kenya and Kenya Commercial Bank (KCB) during their privatisation. But the rest were sold to foreigners and political cronies and this country lost a lot of money.

Privatisation, as I mentioned, is good because it reduces budgetary pressure from the Exchequer. It creates efficiency. If it is done well, it can help the economy to recover. But the problem is that the people who implement it do not follow the proper process.

Privatisation could be used as a strategy to recover the economy. For example, Mumias Sugar Company has been managed by foreigners for a long time since it was incorporated in 1976. For the first time, that company is now under a local manager and for the first time this year, it has posted profits. If privatisation is done well, it could create wealth, employment and more money for taxation, which the Government could use to provide services to wananchi. We have to look at the Privatisation Bill very carefully, otherwise, foreigners and the World Bank are coming for our resources in this country. If we leave the economy - I have Prof. Anyang'-Nyong'o here - to be 100

per cent market-driven, we are going to have a problem because we are still a poor country. Poor people are more vulnerable to market-driven economies. So, we must undertake privatisation with caution. However, the Privatisation Bill, if well implemented, will reduce *ad hoc* decision-making which was there when we were undertaking the previous privatisation. It will also promote accountability and transparency in the management of funds. But when I look at the Bill, it gives a lot of power to the Minister and, especially when you look at Clause 7, it clearly says that the Commission shall have exclusive authority to manage and implement the privatisation process.

Mr. Temporary Deputy Speaker, Sir, Clause 26 says: "An agreement to give effect to privatisation shall not bind a public entity unless it is signed or countersigned by the Permanent Secretary to the Treasury. Clause 7 gives the power to the Commission, but Clause 26 again limits those powers. So, if we are giving powers to the Commission, the powers should be there and it should be left to the Commission. The control by the Government should be very limited because there is a Commission which has been clearly set up in Clause 33.

Mr. Temporary Deputy Speaker, Sir, looking at the composition of the Commission, you find that there are nine commissioners and out of the nine, four are straightaway appointed by Minister the Chairman, who is appointed by the President thus the Attorney-General, Permanent Secretary, Treasury, and the Investments Secretary. Then it gives powers to the Minister to appoint the other four, three from the private sector. Furthermore, the Executive Director who will be in charge of the privatisation Commission is appointed by the Minister. This is an anomaly which should be corrected during the Committee Stage so that the Executive Director of is appointed by the Minister but approved by this Parliament. We are here safeguarding public assets and yet, as representatives of the people, nothing is mentioned in the Bill to show that Members of Parliament have a role to play when disposing of public assets.

The other issue is that we are here to safeguard jobs. I know of so many companies that have been disposed of and people are retrenched. It is important that we provide a specific section where employees of a particular company which is being privatised are given a percentage of the shares. A little amount of the fund can be set aside so that the employees of the company being privatised are given so that they are able to buy shares in that company because it is against the Companies Act to finance your own shares. The Act should be specific because we have left it to the Minister for Finance to determine even the percentage or the extent to which Kenyans can participate in any of the privatisation. It is important that the employees of the company are given percentage of the shares whether 5, 10 or 20 per cent. It should be specific.

Mr. Temporary Deputy Speaker, Sir, we need the Central Organisation of Trade Unions (COTU) to represent the employees of the Privatisation Commission because we have to safeguard employment. COTU will articulate their views more appropriately than those others that have been put there.

Clause 45 provides for privatisation appeal. My view is that privatisation process takes quite a bit of time and it would be a waste of funds if we have three people who are appointed to the tribunal sitting there doing nothing but waiting for appeals. The appeal team should just be appointed on a case to case basis rather than having a standing tribunal.

Clause 42 says: "The Commission shall be funded from the following---" and then, it enumerates the sources of funding of the Commission. But the Bill does not specify how funds from privatisation are going to be used. In other countries, what has happened is that if, for example, you are privatising Kenya Railways Corporation and you make profit, then the same funds are set aside, lent to locals to go into communication and any other related business, so long as it is private. It is not specific within this Bill. I would request that when the Bill comes to the Committee Stage, the usage of privatisation funds is clearly specified.

Mr. Temporary Deputy Speaker, Sir, the Privatisation Bill does not also mention how it will deal with incomplete projects. There are so many incomplete projects all over. You can see National Youth Service houses on Thika Road that are incomplete. It does not come out clearly and say how

it will deal with incomplete projects, so that the Government does not lose out.

With those remarks, I beg to support the Motion.

The Assistant Minister for Local Government (Mrs. Tett): Thank you, Mr. Temporary Deputy Speaker, Sir. I rise to support this Bill.

This Bill should have come to the House earlier than now. Many corporations were formed after Independence and for a good reason. At that time, the economy of this country was very young, but at the moment, most of these corporations have outlived their usefulness. It was expected at that time that the corporations would start remitting dividends to the Government and the Exchequer, but that was not to be. Most of these enterprises have been abandoned to the Exchequer and have been draining the Treasury for many years and have become a liability to the Government.

Some of these corporations have misappropriated their funds. The Public Investments Committee can bear witness to this. At the moment, for example, there is a case in court where the National Social Security Fund (NSSF) bought a fictitious land for Kshs276 million. This is ridiculous and it must stop. The only way to stop it is by privatising all these corporations.

Mr. Temporary Deputy Speaker, Sir, these corporations have become the avenues for excess employment. Many of the people who were in charge of these corporations employed their own family members, friends and whoever they thought would benefit from these corporations. Some of them actually used to pay a fee to be employed. For example, if you wanted to be employed, you would pay so much money to get employment and this was completely wrong.

Mr. Temporary Deputy Speaker, Sir, that is why this parastatal collapsed. For example, the Nyayo Car Corporation was a political project which was not meant to benefit this country and that is why it collapsed. If you also look at the Nyayo Bus Company, the Kenya National Trading Company, the Kenya Fine Spinning Company, Training Levy Trustee and the National Construction Company, the same thing happened, and the list goes on and on. They all collapsed because there was nobody who cared about them. All that the concerned people wanted was to fill their pockets.

Mr. Temporary Deputy Speaker, Sir, it is not desirable to leave companies like Telkom Kenya entirely in foreign hands. For security reasons, that is not advisable. They can hook or tap into Government communications.

As much as we want to privatise, we have to look at these corporations and determine which ones we can leave to foreigners and which ones we can leave to Kenyans. We should not only be interested in money.

We must also guard against undervaluation. We need to have independent valuers, otherwise, most of these corporations will go for peanuts if the valuation is not done properly. Some of these corporations cost a lot of money to set up and run. They also drain a lot of money from The Treasury. If this exercise can be done in the right way, then it will be a new horizon for foreign and private investors. These investors must be encouraged to invest more as this will, no doubt, create a lot of jobs and wealth in this country, and even increase capital.

If we can also manage to revive all these corporations, and they were many, a lot of jobs will be created. There will be goodwill among Kenyans. They will also open competition, goods will be cheaper and there will be no monopoly. If two or more companies doing the same thing are privatised, they will compete and this will benefit *wananchi* as goods will be cheaper. When we revive all these corporations, they will increase revenue for the Government. At the moment, it is getting nothing from these "dead" corporations.

On that note also, we will get new technology. This is because the investors are not going to revive them and just go on with the old technology that has been there. They will bring in new technology and new equipment to put in these corporations. This way, our people will benefit from the new technology and new equipment. That is what we need for workers to be able to develop so that we are not left behind. At the moment, we are very far behind other countries of the world. When we get this technology, indeed, we will get our people to learn more.

I would also like to warn that for some corporations, for example, the Kenya Railways Corporation (KR), we must guard against fare hikes. This is because we will find that when they get the go ahead to privatise this corporation, what might happen is that instead of charging *mwananchi* the normal Kshs800 from here to, say, Kisumu, they may abuse that and charge much more. I am glad when I look at this and it says here in Section 18(b);

"Ensure that there is a specific minimum level of participation in the privatisation by Kenyans or a specific category of Kenyans."

That is very encouraging because if we look at who we should sell these corporations to, we should give our Kenyans the first priority. We should give them to Kenyans because they will have them at heart. They are not going to abuse them. If we give all of them to foreigners, all they want is to take money from this country. I support that we give these corporations to *wananchi*; but as for foreigners, I am not for that.

With those few remarks, I beg to support.

Mr. Bahari: Mr. Temporary Deputy Speaker, Sir, I have been trying to get this chance and I am happy that you have given it to me now.

I would like to support this Bill because, traditionally, the Government is known to be in business other than this one; the business of running organisations. It is in the business of ensuring that there is security, law and order. We were told here yesterday that there are over 200 parastatals under various Ministries in this country. That is why you realise that perhaps the Government is not efficient and is not delivering because it is doing things that it is not supposed to do. This is quite true. We realise that most of the Ministries are not aware of what is happening in parastatals under them. Even the Investment Secretary at the Treasury, who is responsible for supervising parastatals to ensure that they are run using best business practices, releases circulars and at the end of the day, he does not make any follow-ups. There is no continuous monitoring and, therefore, those parastatals are left on their own. There are circulars which are written where reports are supposed to be given at intervals, but nobody bothers to do that. In fact, most of the parastatals even do not receive them. They are so many, hence we jeopardise our core business which is issues like security. We have seen how much hon. Members of Parliament and Kenyans have made noise about their own security because we have concentrated on what is not our core business.

Mr. Temporary Deputy Speaker, Sir, we know that the history of privatisation in this country has not been systematic or organised in the past. It has also not been transparent and I think many hon. Members have said it here. It is in this light that perhaps this Bill is being brought to this House, and that is why we intend to support it.

We hope that this Bill will go through and we will be able to seal most of the loopholes that we have seen in this country for quite some time now. However, looking through this Bill, it does not appear so. There are many loopholes that have been left and I will address those specifics later on. Even in the private sector worldwide, they do not attempt to do everything. In fact, the current trend in business is to do what is core to you; why you came into existence. Those are the things that you do. You do not start doing things that you were not made for. That is the best business practice.

Other people are able to do it better at a cheaper cost. Therefore, overall, we will benefit from it. In addition, we will be able to focus on our core business.

Mr. Temporary Deputy Speaker, Sir, there are certain strategic activities that this Government must retain, so that they do not fall into private hands and lose control. This will ensure that the common good is taken care of. That is why the Government exists; to take care of the common good.

As we go on privatising, it is prudent that we encourage Kenyans and, perhaps, give them an opportunity to purchase shares in the privatised institutions. We should encourage Savings and Credit Co-operative Organisations (SACCOs) because most of them are very rich. It is in some of these companies that they can invest. For example, the retirement benefit schemes which constitute over 40 per cent of the Gross Domestic Product (GDP) of this country, have a lot of money floating

around. They will need such opportunities to invest so that the ownership is spread widely across the country. Kenyans must reap the maximum benefits from this privatisation of our assets. However, this does not mean that we exclude the foreigners. We can do this in two ways; first, we can hire management with necessary expertise to deliver. As much as we blame the past regime for mismanaging parastatals, we are quite doubtful about the NARC Government's commitment to fight corruption. Even the appointments we have seen done by the NARC Government leave a lot to be desired. We were told that the Government would make sure that heads of parastatals would be placed on performance bonds, but we are yet to see all that put in place. That is why we are very doubtful that the right things will be done. But now that it is before this House, we will endeavour to make sure that this law is properly crafted to the benefit of Kenyans.

Mr. Temporary Deputy Speaker, Sir, looking at the specifics in the Bill, I would like to draw your attention to Clause 6, that is, Part II of this Bill. It says:

"The Minister may, with the approval of the Cabinet, make a regulation requiring the Commission to include, in the privatization programme, a transaction that is not a privatization and this Act shall apply with respect to such a transaction as though it were a privatization."

I am at a loss as to what we are up to in this clause. If we will include in this programme, a transaction that is not a privatization, I am not sure what is the thinking behind this. I am not sure whether this is not a contradiction. We are talking about a specific issue here; that is, privatization. But through this same Bill, we are being asked to bring in an issue or transaction that is not privatization. It is expressly stated here. So, this is a contradiction and I think it must be done away with.

Mr. Temporary Deputy Speaker, Sir, Clause 7 also says:

"The Commission shall have the exclusive authority to manage and implement the privatization programme."

Once this commission has been put in place, we would expect it to provide a programme of privatization and report to this House on a regular basis. This will ensure that this House is properly appraised because it is in this House that the public interest is taken care of.

Mr. Temporary Deputy Speaker, Sir, Clause 18(3) says:

"The regulations made by the Minister may govern how valuations are to be performed."

I wonder what is envisaged in this because valuations are done professionally. I wonder what somebody had in mind and whether the valuers will be arm-twisted by those regulations which are here to give a certain value. It is some of these loopholes that are very worrying.

Mr. Temporary Deputy Speaker, Sir, Clause 20(5)(b) says: "A state Corporation to which the section applies shall maintain an up-to-date register of fixed assets."

This is an accounting requirement and you will realise that a number of parastatals do not have even a fixed assets register. There are quite a number of them in this country who do not have a fixed assets register. Most of us do not know about this. So, even when it comes to privatising them, you may find some of the assets completely excluded. It is important that some of these loopholes be addressed.

Mr. Temporary Deputy Speaker, Sir, Clause 26(2) says:

"This section does not apply with respect to an agreement to sell an asset as part of a liquidation if the sale price of the asset is less than the amount prescribed by regulation or, if no such amount is prescribed, ten million shillings."

In this clause a figure of Kshs10 million is given. I do not know how this is arrived at. We have been told here, when Kencell Communications Limited came into being, we made estimates and those estimates were very flawed. In the process, Kenyans lost a fortune; we just gave away our facilities. I am not quite sure how this figure of Kshs10 million is arrived at, and it is important that this is brought to the fore, so that it is very clear to everybody what criteria we are using to arrive at

some of these figures that seem to be proposed here.

Mr. Temporary Deputy Speaker, Sir, Clause 29(2) says:

"The Minister may make regulations governing the records required under subsection(1)."

Why is this so? What kind of records are these? So, this has tended to give the Minister a lot of power. You will realise that the approval process of the programme will go to the Cabinet. Nowhere is it mentioned that Parliament will have a role to play. I thought the current thinking in this country is to devolve some of the powers to this House because it is here that Kenyans are represented. It is here that issues can be handled transparently. As we all know, even powerful Ministers have sometimes been arm-twisted into doing certain things and they keep quiet. They normally find refuge here. So, this business of avoiding as much as possible to go through this House, is terribly suspect. That is why we would like to see all privatization programmes and periodic reports made available to this House for purposes of follow-up and to ensure that things are done correctly.

Mr. Temporary Deputy Speaker, Sir, Clause 34 says:

"The Chairman or a member of the Commission appointed under paragraph (f) or (g) of subsection 33(1), shall hold office for a period of three years and shall be eligible for reappointment."

However, the provisions of paragraphs "f" and "g" do not talk about the appointment of a Chairman. The appointment of a Chairman is in Part V(2)(a). It is important that, that is corrected for purposes of clarity.

Mr. Temporary Deputy Speaker, Sir, this Bill does not talk about the appointment of directors or experts on investment. We know very well that in the private sector, for example, after the Retirement Benefits Act was enacted in 1997, a number of investment companies came up in this country. These companies are trying to manage the retirement benefits of this Fund. Some of these companies have come of age.

Mr. Temporary Deputy Speaker, Sir, we have many investment experts in the banks. This is purely a privatization issue and has a lot to do with investment. I would like to propose that, perhaps, the Kenya Bankers Association should be considered for the appointment to this Board because they deal with investment on a day-to-day basis. Those are people who have proven track records. So, the Kenya Bankers Association in this country have the expertise, and I think it is important they be brought on board.

Clause 36(2)(d) reads:-

"The Chairman or member is incapacitated by reason of prolonged physical or mental illness---"

As long as the Chairman or a member is incapacitated, the issue of prolonged does not arise. This is because it does not give a specific time frame. Some of the illnesses of modern times are sudden and can incapacitate one. I think this Clause is a bit vague as far as the wording "prolonged" is concerned.

Part V, Clause 45(7)(a) says:-

"The Minister may remove a member of the Tribunal on the following ground:-

(a) the Chairman or member becomes an undischarged bankrupt;"

If the Chairman is appointed by the President, in the first place, then he should be removed by him or her. This is the standard practice.

Overall, I would like to support this Bill, subject to the three key issues I have raised here being addressed. The major one is that privatization must be subjected to the approval of this House.

We have seen how different organisations or departments have tended to avoid this House, and yet this is where the interest of the people of Kenya is taken care of. The other issue raised about Ministers is extremely critical. All this is for the interest of Kenyans.

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

Mr. Muite: Thank you, Mr. Temporary Deputy Speaker, Sir.

It is in our interest as Kenyans to enact this Bill in order to provide a statutory framework to regulate privatization. That is a very noble objective. From that perspective, this Bill is in the interest of Kenyans.

I would like to state at the very outset that I support the Bill in principle, subject to the comments and contributions I will make. The objective of those criticisms is meant to improve the contents of the final Act. That improvement is intended to enable us achieve the objectives of the Bill.

The point I am making here is that while it is in the interest of Kenyans to enact this Bill, let us not forget that this is one of the donor-driven Bills. It is the donors who have been saying that we must privatise, and we have been saying that they should give us time because we need to enact the statutory framework within which to do it. So, there are some competing interests here. When the donors tell you to do something, the bottom line is that they turn to gain more than you. Your interest cannot necessarily be identical to theirs. I am saying this because the people with tonnes of money for investment are donors. If you were to privatise Telkom Kenya tomorrow, it is true that there are few Kenyans, whom you can count on your fingertips, who have got the necessary funds to buy this parastatal. But the people who will really have the money and the technical know-how to manage it are the donors. Therefore, when they tell us that we must privatize our parastatals, their real interest is to come and buy all them. Some of these parastatals are worth many millions of US Dollars. These are public institutions and, therefore, we need to be very careful on how we go about this issue.

Mr. Temporary Deputy Speaker, Sir, an attempt has been made by the Government which may not have gone a long way in safeguarding the interests of Kenya while drafting this Bill. Truly, we need to strengthen the interests of Kenya. The Bill talks about the programme of privatization and goes on to specify the sort of matters that the Commission will take into account. I would like to propose that when it comes to making the regulations to be followed by the Commission, we should truly be very specific. We want to attract foreigners to come and invest in this country, first, because they have got the technical know-how in respect of some of the parastatals. But, at the same time, we want Kenyans to invest in these parastatals when they are privatized. So, instead of the regulations to be made, leaving this matter general and vague, they should spell out that the interests of that strategic foreign investor are adequately served if he buys 51 per cent of the shares. We need to be specific that 49 per cent of the shares must be reserved for Kenyans. What the foreign investor wants is to control the management because he has got the majority shares. But as we sell the majority shares to a foreigner, we should also ensure that, at least, 49 per cent of the shares are held by Kenyans. That should be in the regulations and should not be left blank. We should go further and say that when it comes to Kenyans, majority of Kenyans will not even have money to buy many shares.

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

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

Kenya is ranked as one of the countries highest in the disparity scale between the rich and the poor. A few people own 90 per cent of the wealth of this nation. So, again, if you leave this blank, you will have a situation where a few individuals who have been looting public funds in the past are the only ones with the money to invest in these parastatals when they are privatized. These people are looking for ways of making that money rigid. They have looted, are sitting on this money and are the ones with the financial resources of legitimising their ill-gotten wealth by buying these

parastatals which are being privatised. So, what should we do about it? We should specify, or put a ceiling on the percentage of shares that any one Kenyan can buy from a parastatal to be sold. That is because we are trying to make it possible for a Kenyan who may have his or her Kshs1,000, to own a share in those privatised parastatals. So, let us spread it out and say: "Yes, you can buy up to 5 per cent!" But let us spread the rest of it, so that ownership of 49 per cent of certain parastatals is truly in the hands of Kenyans.

I would go further and really support the point made by two or three hon. Members when they were contributing; that preference for a particular percentage should be reserved and given to the employees of each of those parastatals that are being privatised. So, we expect that the Minister for Finance is listening to Members and that those suggestions will be accommodated when we come to the Committee Stage.

Mr. Temporary Deputy Speaker, Sir, Clause 4 of the Bill lists the benefits of the privatisation programme. I have no quarrel with (a) to (f). I would urge the Minister that one of the benefits which is not spelt out here, and which I would like him to add as (g), is more efficient management of enterprises. That is very important because you are spelling out what we are trying to achieve. One of the objectives that we are trying to achieve through privatisation is more efficient management of enterprises.

Mr. Temporary Deputy Speaker, Sir, you know the origin of parastatals was the close of World War II - the socialist thinking Britain. When the British people kicked out the Conservative Party and brought in the Labour Party, although it is the conservatives that led them to victory in the war--- They rewarded Churchill by kicking his government out. They then elected the Labour Government. Then the economic thinking of those socialists was that by creating those public bodies, they would have the benefit of the efficiency of the private sector, while the benefits of the profits would go to the public coffers. But even in Britain, that did not come to fruition because, as long as you do not have the pressure from your shareholders, market forces and competition, the public parastatals never became efficient.

Mr. Temporary Deputy Speaker, Sir, when it comes to the African Continent, Kenya in particular, that problem of lack of market-oriented business practices and quick decision-making processes was compounded by patronage. The wrong people were being given jobs in parastatals. The individuals heading those parastatals would go and employ personnel from their ethnic communities. So, they became very inefficient. Then, the looting started to the point where, truly, those parastatals became a major burden on the Kenyan taxpayers.

When we are privatising, let us also remember that some of the economic thinking that worked very well for this nation in the 1960s and 1970s was not necessarily going to work in this day and age. Let us be much more innovative and radical in the management of the economy. When you revive the Kenya Co-operative Creameries (KCC) - I know that this is a sensitive issue - we must be open to modern and today's market forces. Our farmers must not be permitted to become dependent on producing milk only, and the Government only getting money from taxpayers. All that the farmer has got to do is to produce the milk and he must be paid Kshs18 per litre and he is not interested in the marketing of that milk. He cannot ask himself: Is there an oversupply of the milk? Where is the milk being sold? Let us be much more innovative. I would rather that, when we are borrowing money from the World Bank and donor community, a portion of that money should be earmarked for capacity building of our farmers. Let us assist the farmers in Rift Valley, Central Province or wherever the milk is being produced, to come up with their own efficient small dairies managed by the farmers so that they are also involved in the marketing. Let us capacity-build them so that they are the decision makers in the processing, production and marketing of that milk and look for market elsewhere, so that these dairies can be run efficiently. Let us not run the risk again, of dipping our fingers into the taxpayer's money for the purposes of sustaining unprofitable parastatals.

Mr. Temporary Deputy Speaker, Sir, even for the Kenya Meat Commission (KMC), let us

borrow money. What sense does it make to transport these animals from North Eastern Province, all the way down to Athi River? Why can we not build modern slaughterhouses in North Eastern Province, specifically in Garissa where the raw material is? These days, we have got refrigerated vehicles so that the people of North Eastern Province can own that slaughterhouse. There is electricity there. The animals do not need to be transported far. In fact, as you know, when you transport live animals by vehicle, the quality of the meat goes down. That is why, in the old days, the animals used to be brought on foot from North Eastern Province, all the way to Athi River or from Maasailand. When you transport them, the quality of the meat deteriorates. So, let us build these slaughterhouses where the product is. Let us capacity-build for those pastoralists. Let them manage their slaughterhouses, be involved in the marketing and look for outside markets. Even for our friends in Maasailand, why can they not build their small slaughterhouse not in Athi River, but in Kajiado or in another central place, so that again, they own that slaughterhouse? That is capacity building. Let them be involved not just in the production of the animals, but in the processing and marketing of the meat.

Mr. Temporary Deputy Speaker, Sir, to my mind, that is the way to help them, and let us remember that there are certain key parastatals that you cannot truly privatise, and Kenya Railways Corporation is one of them. Let us invite strategic partners in the Kenya Railways Corporation because even in England, they have discovered that they cannot privatise the railway network. They are now going back to state ownership because of the initial cost of investment. No investor is going to invest where he cannot get a return and yet in terms of transportation by road and by rail, these are areas where all of us must collectively invest as people if we are going to open up the economy. It is time that we focused on the possibility of opening a second port in Lamu and a railway line to cut across North Eastern Province because it will open up all of North Eastern Province, all the way to Southern Sudan. That is the way to activate this economy.

Mr. Temporary Deputy Speaker, Sir, to come specifically to this Bill, the second point that I would appeal to the Minister to include in Clause 4, as an objective for enactment of this Bill is: "Closing down of the avenues of corruption and rent-raking, normally associated with state corporations." Those two should be added as objectives that the Bill seeks to achieve.

Mr. Temporary Deputy Speaker, Sir, there is a little point in terms of tidying up which is in Clause 6, which says that:-

"The Minister may, with the approval of the Cabinet, make a regulation requiring the Commission to include, in the privatisation programme, a transaction that is not a privatisation and this Act shall apply with respect to such a transaction as though it was privatisation."

Mr. Temporary Deputy Speaker, Sir, as a lawyer, it is difficult for me to see how one regulation can actually govern what the Minister seeks to achieve in Clause 6. I think it is more appropriate to talk about:- "The Minister may make regulations", so that what he wants to achieve, can be achieved. He will need more than one regulation. So, it should not be "a regulation." It should be "regulations."

Mr. Temporary Deputy Speaker, Sir, on Clause 9, I have said that when the programmes comes to be drawn, this is where it states:-

"For each privatisation included in the privatisation programme, the Commission shall make specific proposals for privatisation."

That, of course, should be cross-referenced with Clause 16 which talks about the Kenyan participation and I have already made my views known on that.

Mr. Temporary Deputy Speaker, Sir, the next Clause - Clause 22 on page 65 - is entitled: "Regulation of Monopolies." It reads:-

"If a privatisation would otherwise result in an unregulated monopoly, the Commission shall ensure that the agreement to give effect to the privatisation provides for the regulation, under the agreement, of the monopoly."

This is a bit of a contradiction in terms--- What I am saying is that we should not permit any monopolies. This should be cross-referenced with the monopoly, that we have got to come up with an Act to ensure there are no monopolies and where there is, you break it up because we are looking for competition and not towards the encouragement of monopolies.

Mr. Temporary Deputy Speaker, Sir, Clause 33 is important and it is a pity that my friend, hon. Shitanda, the Chairman of the Finance Committee, is not present. I am going to look for him and ask him specifically to assume responsibility for proposing amendments to Clause 33, if the Minister of Finance does not agree to introduce these amendments. I see the Assistant Minister is busy talking in *Kikamba* to the hon. Member here and not listening.

(Laughter)

Mr. Temporary Deputy Speaker, Sir, at the close of the last Parliament, we made tremendous gains when we enacted the Kenya Human Rights Commission Act and the Kenya Anti-Corruption Authority (KACA) Act, in devolving power from the institution of the Presidency to the institution of Parliament. If you remember, that is why in the recruitment of the Commissioner of the Kenya Human Rights Commission, we gave autonomy to this House. It was this House that was given the statutory duty of vetting and recruiting and interviewing the commissioners. This House entrusted that job to the Committee on the Administration of Justice and Legal Affairs. The Committee on the Administration of Justice and Legal Affairs received 846 applications. We shortlisted, interviewed them and we brought to this House 12 names which this House ratified, approved and forwarded to the President. The role of the President was confined and limited to picking nine commissioners out of the 12. He had no other role!

Mr. Temporary Deputy Speaker, Sir, now, when it came to KACA, again this House was given the responsibility of approving the membership of the advisory board. This House again entrusted that responsibility to the Committee on the Administration of Justice and Legal Affairs. We rejected the initial list where the nominating body, if it was the engineers who have got many engineers in this country, had gone and picked for themselves the positions of Chairman and Secretary, and they had put themselves as the people to be appointed to the advisory board of KACA.

Mr. Temporary Deputy Speaker, Sir, we rejected the list and a better list that served as a reservoir of suitable people was brought forward. As a result, there is a very good board in existence. Parliament was able to, very effectively, act as a check against the Executive. That should be the trend. Why are we now reverting back to the President? Is the President supposed to be everything? Some of us who support the presidential system, support it because the parliamentary system has not succeeded in any country in the continent of Africa. We shall continue to support the presidential system.

However, that is not to say that we condone, want or allow over-concentration of powers in the institution of the Presidency. We may have a good President today, but who knows the kind of President we will have next? Let us maintain the momentum that we established as a House, when we enacted the Kenya Anti-Corruption Authority Act (KACA) and the Kenya Human Rights Act. Let us not revert to a situation where it is the President and Ministers who are everything. Clause 33 of this Bill is doing exactly that.

Mr. Temporary Deputy Speaker, Sir, the Chairman of the Privatisation Commission is a pivotal person. Why does the Minister for Finance bring to this House, a Bill that will take us back to the dark ages? Part of Clause 33 states:

"That the Commission shall comprise of the following:

(a) a Chairman, appointed by the President"

No! We, hon. Members, are going to bring amendments if at all the Chairman of the Committee of Finance, Planning and Trade does not bring the amendments. In fact, the Chairman of the

Committee of the Administration of Justice and Legal Affairs will bring those amendments. We want to see an amendment to Clause 33(a) saying the following: "That the Minister shall propose to the House five names of people, one of whom shall be appointed Chairman Privatisation Commission." Thereafter, this House, through the Committee of Finance, Planning and Trade, will recommend three persons. This House will take the names of the three persons to the President and he shall pick one person out of the three to be chairman of the Commission. That is exactly how to devolve power. You cannot just give unfettered power--- One of the issues that has been abused in the past is disregard to appointments. So, we want to increasingly give this House the power and statutory authority to do the vetting that regards appointments.

Mr. Temporary Deputy Speaker, Sir, when you make it mandatory for all key public positions to be subjected to parliamentary approval, you are in essence taking away a lot of the powers that lie in the institution of the Presidency. Let me make it quite clear that if the Minister for Finance thinks that he can get away with Clause 33(a), I am sure that I can count on the support of this House to effect the amendments.

(Applause)

Mr. Temporary Deputy Speaker, Sir, Clause 33(f) gives authority to the Minister for Finance to appoint four members to the Commission. There is a lot of inbreeding in this Bill. We want this body to have its space and autonomy so that its work can be transparent. We want to see institutions, and not the Minister, being given powers to nominate the four people. When you give me these sort of powers, the natural tendency of human beings is to bring along his friends or to ask those he knows whether they know of somebody who is suitable. Let us give the chance to nominate the four members to suitable institutions.

The same kind of retrogressive thinking is being reflected in Clause 45 which speaks of the Public Appeals Tribunal. The chairman to this tribunal is supposed to be appointed by the President. Why do we not ask the Chief Justice to appoint or recommend to the President somebody who is suitable and the members be recommended by the Law Society of Kenya? Now, here, we are talking of the President being the one to appoint the Chairman and, then, the Minister is to appoint two other members. Again, it is the President and the Minister, yet we are talking about fairly important issues.

Mr. Temporary Deputy Speaker, Sir, I wish to assure the Minister that we support him. We support this Government, but one of the best ways of supporting a Government, and even the President, is to point out where they are going wrong. That is what I call support, and by so doing, we will be helping them to realise where they have gone wrong. So, I do hope the Minister is going to bring that amendment.

Mr. Temporary Deputy Speaker, Sir, subject to those views, I beg to support. Thank you.

(Applause)

The Temporary Deputy Speaker (Mr. Poghio): Proceed, Mr. Raila!

The Minister for Roads, Public Works and Housing (Mr. Raila): Thank you, Mr. Temporary Deputy Speaker, Sir, for the opportunity. I would also like to add my voice to that of hon. Members who have spoken before me in supporting this Bill.

Mr. Temporary Deputy Speaker, Sir, this Bill is long overdue. It should have been introduced a long time ago. Had that happened, we would have been able to prevent the loss of a lot of public funds. The history of this Bill has to do with the situation that was prevailing in our country at the time of Independence, because at that time, we inherited an economy which was dominated by foreign interests. At that time, we lacked a class of our own indigenous entrepreneurs, and we were faced with lack of capital and experience. Apart from that, it should be remembered that in 1965, the Government introduced Sessional Paper No.10 on African Socialism, which laid

the foundation of the economic policy of the Government, which was then that of a mixed economy, which entailed having public as well private participation. But then, that time also marked the height of ideological divisions and the Cold War.

If you can remember, there were two competing ideologies at the time; socialism versus capitalism. Socialism was promoting public ownership of the means of production. Tanzania, which followed socialism, came up with the policy of owning the commanding heights of the economy. At the time, it was believed that public ownership of the means of production was in the best interests of the people. In Britain, the Labour Party was following socialist policies. Hon. Members, you will remember that in those days when the Labour Party took over the Government, they nationalized most of the utilities, including water, electricity, railways, gas and many others. When the Tories came to power, they de-nationalized and privatized all the utilities. Here in Kenya, the Government invested heavily and became a participant in the economy by creating a number of parastatals and State-owned corporations, so that Kenyans could meaningfully participate in the economy.

Mr. Temporary Deputy Speaker, Sir, public ownership and management of enterprises has since been discredited. It has been established worldwide that public management is inefficient for wealth creation, and that it is better left in the hands of the private sector. That is the reason why even the Labour Party has since revised their policies. Now, they do not talk about socialist economy but of social market economy. This is the reason why the whole world has embraced liberalism.

Mr. Temporary Deputy Speaker, Sir, what are the objectives of privatization? Firstly, the intention of privatization is to get the Government to move away from the management of businesses and to concentrate on the core functions of the Government, which include providing security and also becoming a referee and a regulator so that competition is enhanced in the private sector.

Mr. Temporary Deputy Speaker, Sir, the major objective is to relieve the financial burden of the Government. The second one is to improve efficiency and productivity. Thirdly, is to facilitate faster economic growth. The fourth one is to reduce the size and the presence of the public sector in the economy. Fifth, is to help to meet the national economic policy targets. So, we cannot just talk generally about privatisation. We need to categorise the types of privatisation. This has been attempted in this Bill. The first one is the sale of assets and equity in the enterprises. The second method is lease. Leasing of assets is also another form of privatisation. The third method is through management contracts. The fourth one is build operate and transfer (BOT). This is used a lot, particularly in as far as infrastructural projects are concerned.

Mr. Temporary Deputy Speaker, Sir, when we are talking about parastatals, we need to distinguish them. When we are talking about parastatals or wholly-owned State corporations, that is one thing. There are also other companies in which the Government has invested through joint ventures with other private companies. This became the fog in the 1960s and 1970s. Through the Industrial and Commercial Development Corporation (ICDC), a number of companies were set up where the Government was in a joint venture with private companies. Unfortunately, the people who were negotiating on behalf of the Government with the foreign investors were not versed in commercial transactions. The Government was, therefore, drawn into very unequal agreements with those private companies. Although the Government coughed up the majority capital for starting up those companies, it ended up in many cases with the minority shareholding. The Government was then tied to these agreements which provided for pre-emptive rights. Pre-emptive rights means that when the Government is trying to sell its shares, the other joint venture partner has a pre-emptive right; the first option to buy those shares. So, we need to come up with clear specifications as to how we will get out of that kind of situation and allow our people the right to buy those shares when the Government is selling them.

The other one is the sale of State corporations. Here, we have a very successful example that we can show. It is a model that is now being hailed over the entire continent of Africa. This is the

sale of Kenya Airways. You will remember that at one time, when this matter was brought before the House, many hon. Members were hesitant to approve the restructuring and privatisation of the Kenya Airways. With hindsight, nobody wants to agree that it was the right decision to move in the way the Government moved. By then offering to write off the debt of Kshs7 billion, we were able to turn the Kenya Airways into a much more profitable commercial enterprise. The Government has since been able to recoup what appeared to be a loss through the privatisation of the Kenya Airways. The privatisation of the Kenya Airways is hailed as a success story. That is the reason why I want to say that we have the experience in the country that we can use when we are engaging in privatisation.

Mr. Temporary Deputy Speaker, Sir, other countries that have had successful privatisation programmes are countries which have put clear ceilings as to how much a foreign investor can buy when these enterprises are being privatised. Malaysia is one such country. In Malaysia, it is stated clearly in their Act that foreigners cannot buy more than 25 per cent of the shares of the companies when they are being privatised. This is because most of those corporations were set up using taxpayers' money.

Mr. Temporary Deputy Speaker, Sir, those are Kenyan properties. Kenyans should get priority to buy the assets when they are being privatised. We must, therefore, have capital to invest in technology. However, we must also understand that foreign investors do not come to invest in a country in order to develop it. They come to invest in order to make money. Sometimes they evade paying taxes and repatriate their capital back to their countries, in order to pay dividends to their shareholders, whereas the local investor will plough back profits into the country. That is why it is necessary for us to encourage Kenyans to participate effectively in this privatisation exercise.

I agree with the hon. Member who said that we should not allow valuation of assets to be decided at the discretion of the Minister. The method to be used to value parastatals should have been attached to this Bill as a schedule. The methods to be used to value parastatals should be known. They should be attached to the Bill as schedules and not just left to the Minister to gazette.

I agree with the hon. Member who spoke before me and said that the proposed Board is too large. I also hold the view that the Board proposed by the Minister is too large. I also agree with hon. Muite that the Chairman should be appointed by the President but nominated by the Minister. The Minister should submit three names to the President for appointment. Mr. Muite spoke very passionately about trying to reduce presidential powers, and giving more powers to this House. At the same time, he contradicts himself by saying that he believes in a presidential system. He believes that the presidential system is the only one that has ever succeeded on the African continent. I would like to challenge him to tell this House in which country the system has succeeded in the African continent. The problems we are having in Africa are because of powerful presidential systems that have failed. I do not know which country has succeeded, whether in East Africa, Central Africa or Southern Africa. The presidential authoritarian system has been the cause of coups in the African continent, mismanagement of the African economies, suffering and impoverishment of the African people. It is a shame that an hon. Member can stand in front of this House to defend dictatorial presidential systems.

In the Kenya Anti-Corruption and Economics Crimes Act an advisory committee is provided for. However, that is just advice which we can accept or reject. It is surprising that the Chairman of the Law Society of Kenya (LSK) can stand on top of a roof and shout that Parliament is obligated to accept the advice coming from the advisory Committee. Parliament delegated its function of selecting a candidate to that Committee. The Committee is supposed to bring the names to Parliament. Parliament reserves the right to accept or reject the proposal by the advisory Committee. Some of us suspect that the LSK Chairman can be made a sycophant by certain sections of the society and just start parroting certain partisan interests, instead of protecting the rights and interests, of members of our society.

I also agree that the four members who are supposed to be appointed by the Minister under Clause 33(1)(f) by virtue of their expertise to ensure that the Commission achieves its objectives, are too many. Therefore, I am suggesting that the number be reduced to two. I also believe that once we have a Permanent Secretary, he can delegate his functions to the officer appointed as the Investment Secretary in the Treasury. Therefore, we do not need two officers from the same Ministry on the proposed Board. That will reduce the number of those who will sit on the Board. We need to have on the Board a member nominated by the Kenya Association of Manufacturers (KAM) as a stakeholder.

You will see that Clause 33(2) on the chairmanship says that no person shall be appointed as Chairman unless he has a university degree in law, economics or accounting, and at least ten years of high level experience in either the public or the private sector. Those who drafted this Bill in the Attorney-General's Office are biased towards certain professions. They always think of either a lawyer or an accountant. Why is it that an engineer cannot be the chairman of this Commission?

(Applause)

If you read Clause 38(2) on the Executive Director, you will see that it says that no person shall be appointed as the executive director unless he possesses experience and expertise in law, financial management, banking or economics. In addition, they should have the experience required and expertise in matters of public policy. This shows that the drafters are trying to get the chairman and the executive director from these two professions. The executive director should come from these professions but the other position should be open. Why do we need to have two lawyers in this Board, one as the Chairman and the other as the executive director?

Mr. Muite: On a point of information, Mr. Temporary Deputy Speaker, Sir. I would like to inform hon. Raila, the Member for Langata, that the real reason why the legal qualifications are required for the two positions is because lawyers run the world.

The Minister for Roads, Public Works and Housing (Mr. Raila) Mr. Temporary Deputy Speaker, Sir, as far as I am concerned, whenever there are two lawyers, there is only chaos. In fact, lawyers have been the cause of chaos in most countries because they keep on arguing over commas and full stops.

Capt. Nakitare: On a point of information, Mr. Temporary Deputy Speaker, Sir. I wonder whether lawyers are the only administrators qualified to administer and manage money.

The Minister for Roads, Public Works and Housing (Mr. Raila): Of course, the hon. Member is agreeing with me, and I am grateful that he concurs. Clause 38(1) on appointments states:-

"The Minister shall appoint an executive director of the Commission who shall be the chief executive officer of the commission, and who shall, in addition, perform such duties as the Commission shall assign to his office."

We have said time and again that we would like to establish transparency and accountability. We would like to see competition in appointments to public offices. It should be clearly stated that this post will be advertised, so that people with qualifications can apply. This will ensure competitive selection of the most suitable person. If you leave this to the discretion of the Minister, what is there to stop the Minister from appointing a friend or a girlfriend?

Mr. Temporary Deputy Speaker, Sir, We want to move away from this era, where executive officers are appointed at the behest of the powers that be. This is someone who will exercise executive functions over the sale of the vast assets that belong to the people of this country. Let him or her compete for appointment, so that everybody knows that this person was appointed because he was the best available at that time.

Clause 39(1) states as follows:-

"The commission shall appoint such other employees---"

All the positions must be advertised and employees should not just be appointed by the commission. If we do this, we will create competition. I also believe that in privatisation, a lot of resources will be required. Most of the time you need to do feasibility studies before you privatise them. You also need to restructure certain companies and corporations before you privatise. Sometimes you need to compensate people. Therefore, there is need to set up a privatisation fund to finance those other functions.

I want to talk about the personnel who are working for the corporations that will be privatised. In other countries, it has been made conditional that staff are retained by the incoming company, and that there will not be unnecessary retrenchment of the staff who work for these corporations. I would like to see that incorporated in this Bill. After restructuring or privatization, existing staff should be retained in employment to avoid undue suffering. A scheme should be offered to them so that they either stay in the Government scheme or opt for the new scheme that will be introduced by the new management that will take over a parastatal or corporation, as the case may be.

With those many remarks, I support the Bill.

Mr. Kipchumba: Mr. Temporary Deputy Speaker, Sir, I would also like to give my comments on this Bill. When you look at this Bill, you get the impression that the Government would like to give the Minister for Finance all the power to decide when and how to undertake privatisation. I think it is only important that Parliament also plays a role in ensuring that the process of privatisation is done in the most efficient and transparent manner.

When the Bill says that the privatisation programme shall be formulated by the Commission and approved by the Cabinet, you get the impression that the minutes of the Cabinet should be made available to us. I would propose that this programme must be approved by Parliament. Most of the parastatals and State corporations that exist today were formed using funds from the taxpayers. Therefore, it is only fair that Parliamentarians, who are representatives of the people, have a say as to which corporations should, indeed, be privatised.

I think it is important for us to understand why we have to privatise in the first place. We must take into account the fact that there are parastatals in this country that were formed to offer basic social services or assist in ensuring that Kenyans get services in the cheapest way possible. We have in mind parastatals such as the Kenya Power and Lighting Company, Telkom Kenya and the Kenya Railways Corporation. These are companies that were formed to give Kenyans the cheapest services possible.

The problem with many of the State corporations is basically management. We have seen a few parastatals that have been given new management and they have, indeed, thereafter made profits. Parastatals such as the Kenya Commercial Bank or any other bank that the Government would like to sell must be scrutinized properly. We must state in this House the kind of State corporations that must not be sold. A case in point is a parastatal like the Kenya Ports Authority. Many countries in the world have certain parastatals that must not be sold. I think it is important that such corporations are identified in advance, so that when we give power for the privatisation of the other parastatals, those ones will, indeed, be safe.

If privatisation is equivalent to retrenchment, then the whole essence of privatisation does not make sense to us. This morning we were told by Telkom Kenya that by the end of June, it will have

retrenched up to 6,000 Kenyans. Early last year this Government came to power with a promise to give jobs to Kenyans. One-and-a-quarter years down the line, it is telling us that 6,000 Kenyans in one company must go home. Where will it create new jobs? That is why I am saying that if privatisation is equivalent to retrenchment, then there is no point in us approving this Bill. I am a proponent of privatisation. We are aware that privatisation has its own benefits, but so are other State Corporations which must be run in the most efficient and transparent manner. The NARC Government promised to be efficient and transparent in their dealings. So, the most critical thing to

do now is to ensure that there is efficient management in many of these Corporations, even before we think of privatising them. That is very important.

Mr. Temporary Deputy Speaker, Sir, every hon. Member who has contributed to this Bill said privatisation will lead to efficiency and it will ensure that the Government collects taxes which could be used to fund other services. However, they are not talking of the other aspect. For example, put yourself in a situation where Kenya Power and Lighting Company (KPLC) today is privatised. What will happen if the cost of power doubles? We still have monopolies in this country. Privatisation is only good when there is competition. So long as we still have companies in this country that are monopolies, privatisation is not a solution to the problems that we have in this country. As I said, I support privatisation. However, the first thing to be done for us to move forward is to agree to list all the companies that will be privatised and those that will not be privatised at the moment. That is very important.

Mr. Temporary Deputy Speaker, Sir, I know the other day KPLC had a debt of Kshs11 billion which was converted to equity. That was an unfortunate situation which must be looked into. This was as a result of poor management. We are aware that there was a lot of mismanagement. However, the Minister has not taken any action and yet, a report was given to him. We must look at every company and evaluate it as an entity that can make money.

When you look at Clause 4 of this Bill, it gives us the reasons why a company must be privatised. However, a very important aspect has been forgotten in this clause. We must include companies that are dormant. These are companies which, for certain reasons, have been forgotten. Let us ensure that companies that were started and are not operating are sold in the earliest convenient time. The concept of forming many of these companies was very good, but along the line, and because of certain political reasons, they were not completed.

Mr. Temporary Deputy Speaker, Sir, Clause 5(2) says:

"A review described in subsection (1) may be made at the request of the Minister responsible for the public entity or on the Commission's own initiative."

I disagree with this Clause. Hon. Members must have a say on when and which company is to be privatised. The representatives of the people of the Republic of Kenya are hon. Members of Parliament. Therefore, all proposals, in my view, should come through this House.

Mr. Temporary Deputy Speaker, Sir, I would like to agree with some of my colleagues who have talked before me. If you look at the privatisation process, we must include many other clauses in this Bill. The process must be fair and transparent to members of the public. I have seen elsewhere in this Report that the report of the Commission must be confidential. We know that all State corporations belong to Kenyans. So, when we say that a report must be confidential, to whom is it supposed to be confidential? Every Kenyan has a stake in State corporations. Therefore, we cannot tell the owners of a company that they cannot be given certain information about that company. I think we are forgetting that State corporations belong to Kenyans. We must also include a clause to provide that the privatisation process must adhere to Government financial regulations. There must be tendering, advertising and other requirements that will ensure financial discipline.

I would like to comment on Clause 10. I concur with many of my colleagues that, we must state on the onset as to how many shares Kenyans must own in a certain company. It is the practice all over the world that when we float shares, we must reserve a certain number of shares for our people. We cannot allow certain corporations to be owned by foreigners. For example, Tanzania is selling almost everything and that is another way of promoting poverty. Fortunately, we have not done that in this country.

Mr. Temporary Deputy Speaker, Sir, Clause 13 provides that the process of privatisation must be overseen by a steering committee, which will include the Attorney-General, the Permanent Secretary, Finance, and the Investments Secretary. Are we saying that the Steering Committee of the whole process will still be Government officials? I thought it would have been prudent to

appoint people from outside the Executive to be part of the membership of the Steering Committee. We cannot appoint the same people, who have approved the process, to be members of the Steering Committee. They have got a lot of work to do and we cannot add them more work. We have seen a lot of inefficiencies in the Attorney-General's Chamber. That is why I support what a previous speaker has said here, that, many of the Bills we have seen in this House must have been drafted by a lawyer. Is it because all these Bills are drafted by the Attorney-General, who is a lawyer? It beats logic that even the chairman of the Steering committee must be a lawyer. Anybody who has a degree in this country can be the chairman of

such a simple committee, unless one did not go through a recognized university.

The Assistant Minister for Foreign Affairs (Mr. Wetangula): On a point of information, Mr. Temporary Deputy Chairman, Sir.

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

Mr. Kipchumba: Yes, Mr. Temporary Deputy Speaker, Sir.

The Assistant Minister for Foreign Affairs (Mr. Wetangula): Mr. Temporary Deputy Speaker, Sir, the philosophy and the reason behind it is because of the intricacies and complications of issues involved. It requires a learned person to do that.

Mr. Kipchumba: Mr. Temporary Deputy Speaker, Sir, I know that many hon. Members will agree with me that the purpose of every lawyer in every committee is to cause confusion. If you put a lawyer to be the chairman of a corporation, there will always be total confusion there. That is why the Law Society of Kenya (LSK) is always embroiled in confusion. If they had elected a chairman who is not a lawyer, he could have done better than a lawyer. It is very clear that any person who holds a degree, with the relevant experience, can do a very good job, except lawyers. It would have been good enough if we removed lawyers in these commissions, because they have a lot of interest. They would want to cause confusion---

(Applause)

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Poghio): Order! Order! Mr. Kipchumba, you have 15 minutes left.

Hon. Members, it is now time for the interruption of business. The House is, therefore, adjourned until Tuesday, 27th April, 2004, at 2.30 p.m.

The House rose at 6.30 p.m.