

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 18th July, 2001

The House met at 9.00 a.m.

[Mr. Deputy Speaker in the Chair]

PRAYERS

ORAL ANSWERS TO QUESTIONS

Dr. Ochuodho: Mr. Deputy Speaker, Sir, although I have not received a written reply, I will ask my Question.

Question No.206

CRITERIA TO DECLARE HARDSHIP AREAS

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

- (a) what criteria the Government uses to declare an area a hardship or arid and semi-arid area, especially with regard to deployment of teachers;
- (b) whether there are any plans to declare Homa Bay District a hardship area, considering the failed crop in the last harvest, increasingly prolonged dry spells, unusual lake flooding, broken infrastructure and the hyacinth menace; and,
- (c) what preferential treatment the district can expect in order to stem the abject poverty and looming famine in the area.

The Assistant Minister, Office of the President (Mr. Samoei): Mr. Deputy Speaker, Sir, this Question is supposed to be answered by Mr. Ntimama and he is not yet here.

Mr. Deputy Speaker: We will come back to it.

Question No.274

CHIEF FOR NORTH SAKWA LOCATION

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

- (a) whether he is aware that North Sakwa Location in Bondo Division has been without a chief for the last three years; and,
- (b) when he will appoint a chief to serve in the location.

The Assistant Minister, Office of the President (Mr. Samoei): Mr. Deputy Speaker, Sir, I do not have the reply to this Question. There was some conflicting information and I want to seek the indulgence of this House on this Question. I will answer this Question, either this afternoon or tomorrow afternoon.

Dr. Oburu: Mr. Deputy Speaker, Sir, I have no objection to that, although my people have been suffering for the last four years for lack of a chief. I am very anxious to have this Question answered. The Question has been there for the last six months.

Mr. Deputy Speaker: Mr. Samoei, why has there been a delay in getting an answer from the field? With one phone call, you will get the answer to the Question.

The Assistant Minister, Office of the President (Mr. Samoei): Mr. Deputy Speaker, Sir, as I told you, I have two conflicting reports in as far as this particular issue is concerned. You are aware that a chief is a very important person and a location without a chief for three years is indeed, not quite in order.

Mr. Deputy Speaker: I think a chief is very important. That is why Dr. Oburu is asking why the location has not had a chief for the last three years.

Dr. Kulundu: On a point of order, Mr. Deputy Speaker, Sir. Given that the Assistant Minister has

acknowledged that he has two conflicting answers, what punitive action will he take against the---

Mr. Deputy Speaker: Order, Dr. Kulundu! There is no Question before the House; so, what are you asking? The Question is deferred to tomorrow afternoon.

(Question deferred)

Question No.389

MAINTENANCE OF MASALANI/IJARA AIRSTRIP

Mr. Deputy Speaker: Mr. Weyrah is not there? We will come back to this Question.

Question No.392

HARDSHIP ALLOWANCE FOR GOVERNMENT OFFICERS

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

- (a) whether he is aware that Government officers in Kitui South are not paid hardship allowance despite the area being arid; and,
- (b) when he will pay the said officers hardship allowance.

The Assistant Minister, Office of the President (Mr. Samoei): Mr. Deputy Speaker, Sir, this Question had been answered by Mr. Ntimama and there was some information that was lacking. I am sure he will be here in the course of the morning session.

Mr. Kiminza: Mr. Deputy Speaker, Sir, it is true that this Question was, indeed, answered by Mr. Ntimama, but the Chair gave a ruling that the Minister should come back to the House with the time frame within which harmonisation of the hardship allowance payment would be done countrywide.

Mr. Deputy Speaker: The Minister concerned is not here. So, we will come back to it later.

Question No.337

LEGAL AUTHORITY IN CHARGE OF KCC

Mr. Gatabaki asked the Minister for Agriculture:-

- (a) who is currently the legal authority in charge of the Kenya Co-operative Creameries Limited (KCC);
- (b) how much money has been paid to the receivers to date; and,
- (c) how much money and at what interest Kenya Commercial Bank has advanced to the KCC, and how much money the KCC owes the bank, i.e., the principal plus interest.

The Assistant Minister for Agriculture and Rural development (Mr. Sumbeiywo): Mr. Deputy Speaker, Sir, I beg to reply.

(a) The legal authority running the KCC is the official receiver appointed by the Kenya Commercial Bank on 5th August, 1999.

(b) As at 31st December, 2000, the receivers of the KCC Limited had been paid a sum of Kshs21.6 million. Since then, no more payments have been made to them.

(c) As at December, 2000, the KCB had advanced the KCC Kshs1.8 billion. This sum included principal and interest accrued since the money was given as an overdraft. The said sum has changed since then due to accrued interest over a period of time.

Mr. Gatabaki: Mr. Deputy Speaker, Sir, first the Assistant Minister has not provided me with a written answer. He should make sure that he gives me a written answer before we come to the end of this Question. However, what has been going on at the KCC for the last couple of months is in every Kenyan's mind. The reply to this Question does not reveal what has been going on. There are new companies being advertised and we have been told that somewhere in the Rift Valley Province, a certain company has taken over the running of the KCC, and it is advertising for the sale of shares. Can the Assistant Minister tell us precisely what is going on at the KCC? Who is running the KCC? There is a new Board run by the former head of the Army, General Cheruiyot. Who is in charge of the KCC? Is it the KCB, the receiver or the new management that we see every day advertised

in the newspapers?

Mr. Deputy Speaker, Sir, KCC is one of the most important parastatals in this country.

Mr. Deputy Speaker: Order, Mr. Gatabaki! You have already asked your question. You do not make a speech after asking a very good question.

Mr. Sumbeiywo: Mr. Deputy Speaker, Sir, the KCC was incorporated as a public limited liability company under the Companies Act, Cap.486, on 22nd August, 1925, and registered under the Co-operative Societies Ordinance on 8th February, 1932. Its basic objective was, and still is, to receive and process raw milk from its members into various products and market them on their behalf.

The KCC was originally a settler organisation and utilised the company's registration for operational and legal purposes, whereas it used the co-operative legislation for tax purposes. Tax returns and payments under the Co-operative Societies Ordinance were simple and modern. However, by the year 1968, the co-operative legislation had lost its usefulness for tax purposes. Subsequently, the KCC was granted total exemption from the Co-operative Society Act by the then Minister for Co-operative Development, under Section 86 of the Co-operative Societies Act, Cap.490, under a Legal Notice No.125 of the year 1968.

Mr. Deputy Speaker: Mr. Assistant Minister, which supplementary question are you answering?

Mr. Sumbeiywo: Mr. Deputy Speaker, Sir, it is this one! I want to give the background of the Kenya Co-operative Creameries (KCC).

Mr. Deputy Speaker: No! Order! There is no background to the question of who is running the KCC! That is the question that he asked you! Who is currently running the KCC?

Mr. Sumbeiywo: Mr. Deputy Speaker, Sir, in my first answer, I said that the KCC is being run by a receiver who was appointed in 1998.

Mr. Deputy Speaker: Order, Mr. Assistant Minister! He asked you about the advertisements, which made every Kenyan aware that there is a new Board. So, just explain the relationship between the new Board and the receiver!

Mr. Sumbeiywo: Mr. Deputy Speaker, Sir, the KCC is a farmers' body. The receiver is Silco.

Mr. Muite: Mr. Deputy Speaker, Sir, any receiver owes a duty to the shareholders to ascertain the debts and the assets. If the assets of the company are to be sold on a going concern, then a transparent procedure must be followed. Could the Assistant Minister tell this House whether the receiver was involved in the meeting that took place in Nakuru, where the new board took over the management of the KCC? What role did the receiver play? Is there an agreement between the receiver and the new board? Was there any advertisement? On what basis did the new Board take over the KCC?

Mr. Sumbeiywo: Mr. Deputy Speaker, Sir, as far as the Ministry is concerned, there is no new Board. The KCC is still under receivership.

Mr. Deputy Speaker: I give this chance to Mr. Thirikwa!

(Mr. Angwenyi stood up in his place)

Mr. Angwenyi: Mr. Deputy Speaker, Sir, you have forgotten this side!

Mr. Deputy Speaker: Mr. Angwenyi, be seated! You have no role whatsoever, in running the affairs of this House, except to contribute as a Member. Next time you cast aspersion on the Chair's ability to see and nominate Members to ask questions or speak, I am afraid action will be taken!

Proceed!

Mr. Thirikwa: Mr. Deputy Speaker, Sir, the Assistant Minister has said that the KCC owes Kenya Commercial Bank (KCB) Kshs1.8 billion! I would like to ask the Assistant Minister whether he has records that show clearly that the KCC owes the KCB Kshs1.8 billion, other than the figures that are in his head! I also wish the Assistant Minister could confirm or deny that in the 1995/96 financial year, and without authority from the shareholders, the KCB advanced the KCC in excess of Kshs1 billion! Any advancement of money to companies must be authorised by shareholders. That is the debt that finally landed the company where it is today!

Mr. Sumbeiywo: Mr. Deputy Speaker, Sir, that money was advanced to the KCC as an overdraft, to purchase milk from the farmers.

Mr. Obwocha: Mr. Deputy Speaker, Sir, I think the Question is quite clear, but the Assistant Minister is not coming out quite clearly, as the Chair directed! We want to know the relationship between the KCC, which is under receivership, and the KCC 2000 Limited which has a new Board. Has it taken over the assets of the KCC under receivership or not? That is the information that we want from the Assistant Minister. I believe he understands that question.

Mr. Sumbeiywo: Mr. Deputy Speaker, Sir, the KCC 2000 Limited has not taken over the assets of the KCC under receivership. The KCC 2000 is a farmers' body that is intending to buy shares from the KCC under receivership and, eventually, it might even buy the property of the KCC under receivership.

Mr. Murungi: Mr. Deputy Speaker, Sir, everybody knows that the reason why the KCC collapsed was because of massive looting by powerful people in this country, including the son of the President, Mr. Raymond Moi. Could the Assistant Minister tell this House what steps the Government is taking to ensure that the people who looted the KCC are brought to book?

The Minister for Vocational Training (Mr. Ruto): On a point of order, Mr. Deputy Speaker, Sir. Is it in order for the hon. Member to cast aspersions and attempt to smear the names of people who cannot defend themselves in this House, when he knows the real looters include Mr. Thirikwa who is in this House?

Mr. Deputy Speaker: Order, hon. Members! Two wrongs do not make a right! It is totally unprocedural to name people without substantiation, if they are not able to defend themselves. He was quite correct! But, secondly, and more importantly, if you want to refer adversely to another Member, then you must do so on the basis of a substantive Motion.

The Minister for Vocational Training (Mr. Ruto): Mr. Deputy Speaker, Sir, if I am challenged to substantiate, I can substantiate that Mr. Thirikwa and Mr. Muiruri were involved in criminal activities in the KCC!

Mr. Deputy Speaker: Order! That is not substantiation, Mr. Ruto! That is just making further allegations, to which you will be called upon to

[Mr. Deputy Speaker]

substantiate! Are you going to substantiate or not?

The Minister for Vocational Training (Mr. Ruto): Mr. Deputy Speaker, Sir, I will substantiate next week. I will bring the report.

Mr. Deputy Speaker: Order, hon. Members! The Chair has made it very clear in the past that if you stand to make an allegation about a person, you will do so knowing that you will be called upon to substantiate. You cannot stand and make an allegation about another Member and then say: "I will substantiate next week!" What happens to him and his image between now and next week? So, do it now!

The Minister for Vocational Training (Mr. Ruto): Mr. Deputy Speaker, Sir, I will bring copies of the report in the afternoon!

Mr. Deputy Speaker: Thank you very much!

The Assistant Minister, Office of the President (Mr. Samoei): On a point of order, Mr. Deputy Speaker, Sir. Since you have asked Mr. Ruto to substantiate or withdraw his remarks, could you do the same to Mr. Murungi, who has made adverse statements?

Mr. Deputy Speaker: I will! Indeed, Mr. Murungi, you too must substantiate this afternoon! I will give you the same time!

Mr. Murungi: On a point of order, Mr. Deputy Speaker, Sir. When a matter appears either in the Public Accounts Committee (PAC) Report or in the Public Investments Committee (PIC) Report, such a matter cannot be a matter for substantiation! All the Member needs to do is to read those reports!

Mr. Deputy Speaker: Order! It is inconceivable that Members will remember all the details of all the PAC and PIC reports. So, if you want to refer to that document as your authority, you must tell Members the year the report was made and which paragraphs. So, you will proceed to do that. Are you going to do that in the afternoon?

Mr. Murungi: Yes, Mr. Deputy Speaker, Sir. I will look at the reports.

Mr. Deputy Speaker: Well, I want you to tell this House which year's report and paragraph you are referring to this afternoon.

Mr. Murungi: Yes, Mr. Deputy Speaker, Sir. I will look at the reports.

Mr. Gatabaki: Mr. Deputy Speaker, Sir, now that the Assistant Minister has agreed that the KCC, the way we know it, is not under the KCC 2000, which every Kenyan knows who is behind it, could he clearly tell Kenyans that the new body purportedly which wishes to buy the KCC is a private affair and KCC, the way we know it, remains the KCC and not the presidential family's concern?

Mr. Sumbeiywo: Mr. Deputy Speaker, Sir, I confirm that the old KCC remains under receivership and the KCC 2000 is just a registered organisation by farmers, which is already registered under the Companies Act, and the officials are working with the receiver on how to buy or to sell KCC to these farmers who have registered themselves as KCC 2000.

Mr. Angwenyi: Mr. Deputy Speaker, Sir, could the Assistant Minister tell this House what is the value

of KCC assets and how much does it owe farmers?

Mr. Sumbeiywo: Mr. Deputy Speaker, Sir, I think that is a different question that I will answer it when it comes to the Floor of the House.

Mr. Gatabaki: On a point of order, Mr. Deputy Speaker, Sir. Considering that the new KCC 2000 has been advanced Kshs400 million by KCB on the strength and persuasion of President Moi, is the Assistant Minister not misleading the House that KCC 2000 is not deeply involved in acquisition of KCC?

Mr. Sumbeiywo: Mr. Deputy Speaker, Sir, what is happening is that farmers have collected money to pay 10 per cent of Kshs400 million. There is no money which has been advanced to KCC 2000 as upto now.

Eng. Toro: Mr. Deputy Speaker, Sir, it is very clear that KCC 2000 has the intention of taking over KCC and its assets against the disadvantaged farmers and there are some powerful people working behind KCC 2000 to acquire the assets of KCC. Could the Assistant Minister assure this House that despite KCC Limited being able to pay 10 per cent of the money owed by KCB, they are not going to acquire all the assets worth about Kshs4 billion of KCC to the detriment of the farmers?

Mr. Sumbeiywo: Yes, Mr. Deputy Speaker, Sir. I confirm that there will be no way where these registered farmers of KCC 2000 will take over property without paying for it.

Mr. Angwenyi: On a point of order, Mr. Deputy Speaker, Sir. I asked a pertinent question. Since KCC has been advanced a loan to the tune of Kshs1.8 billion, this must have been based on the assets of the company. So, the Assistant Minister should be able to know what were the assets upon which this loan was advanced. Secondly, KCC is being bought---

Mr. Deputy Speaker: Order! You cannot ask a second supplementary question!

Mr. Angwenyi: Mr. Deputy Speaker, Sir, is the Assistant Minister in order to avoid answering my question?

Mr. Deputy Speaker: Order! Hon. Angwenyi, you must be precise and concise. You have asked the Assistant Minister a question, which I will now ask him to answer.

Mr. Mr. Sumbeiywo: Mr. Deputy Speaker, Sir, as I earlier on said, when KCC was placed under receivership in 1999, it had a debt of Kshs1.8 billion and the assets had not been valued at that time.

Mr. Ochuodho: Mr. Deputy Speaker, Sir, could the Assistant Minister be kind enough to tell this House what interests certain senior members of the Government have in KCC? The reason for asking this question is because a while back, previous directors had a company from South Africa which wanted to buy equity into this company but were turned down. Could the Assistant Minister tell this House why they were turned down and what interest senior Government officials have in KCC?

Mr. Sumbeiywo: Mr. Deputy Speaker, Sir, I am not aware that there was a company from South Africa which intended to purchase KCC and, as such, I cannot answer that.

Mr. Gatabaki: Mr. Deputy Speaker, Sir, you see the interest generated by Members regarding KCC is enormous because it is a national property. KCC is the story of the farmers of Kenya and we are seeing interesting developments of queer machinations of acquiring a Kshs5 billion industry with only Kshs400 million. The issue is, and I wish hon. Obure was still the Minister for Agriculture because he would be more honest and straightforward and he would clarify the issues there--- However, I do not know how the Cabinet is constituted because---

(Applause)

Mr. Deputy Speaker: Order! Order!

Mr. Gatabaki: Mr. Deputy Speaker, Sir, could this Assistant Minister be honest to Kenyans, and we are telling the Kenya farmers, and most of the them are in the Rift Valley Province, that the Government has every good intention of---

Mr. Deputy Speaker: Order, Mr Gatabaki! There is no question there. Next Question, Mr. Kalulu!

Question No.364

PAYMENTS TO MBOONI COFFEE FARMERS

Mr. Kalulu alimuliza Waziri wa Kilimo:-

(a) kama anaelewa kuwa wakulima wa kahawa wa Mbooni na Tulimani hawajalipwa pesa za mazao yao kwa muda wa miaka miwili; na,

(b) kwa nini malipo hayo hayakutekelezwa.

The Assistant Minister for Agriculture and Rural Development (Mr. Sumbeiywo): Bw. Naibu Spika, naomba kujibu.

(a) Wakulima wa tarafa ya Mbooni kata ya Tulimani wanatumikiwa na Kikima Farmers Co-operative Society. Kwa kipindi cha miaka miwili iliyopita, mazao ya kahawa ambayo iliuzwa kupitia shirika la Kikima ni kama ifuatavyo: 1998/99 - Kshs25,685,399; 1999/2000 - Kshs13,034,299. Zote kwa jumla ni Kshs38,719,658.

(b) Pesa hizi zimelipwa shirika la Kikima kupitia benki ya ushirika tawi la Machakos. Wakulima wahusika waulizwa kuchunguza hesabu yao ama ya malipo yao katika shirika la Kikima.

Mr. Kalulu: Bw. Naibu Spika, ninafikiria Waziri Msaidizi atakubaliana na Bunge hili kutoa ripoti kabambe na njema ambayo inakubalika. Bw. Waziri Msaidizi anaweza kukubaliana nami kwamba mukhtasari aliyotoa kwa malipo si wa haki? Pia, anawezwa kukubaliana na Bunge hili kwamba malipo ya kahawa katika sehemu zote za Kenya yamekuwa mabaya? Anaweza kufanya uchunguzi kuona ni kwa nini malipo yamechelewa na kwa nini wakulima wanalipwa pesa vibaya? Hii ni kwa sababu utakubaliana nami kwamba wewe unakaa mbali na wakulima, lakini mukhtasari uliopata ni kutoka kwa wale maofisa wa kilimo.

(Applause)

Mr. Kalulu: Bw. Naibu Spika, ningependa kumuuliza Waziri Msaidizi ni kwa sababu gani malipo kwa wakulima wa kahawa yanachelewa, na tena ni kwa nini wakulima wa kahawa wanalipwa pesa "mbaya" nchi nzima? Ni kwa nini Waziri Msaidizi hawezi kufanya uchunguzi kubainisha ni kwa nini wakulima wa Meru na sehemu zingine za Kenya wanalipwa vibaya?

Mr. Deputy Speaker: Bw. Kalulu, "pesa mbaya" ni pesa aina gani?

Mr. Kalulu: Bw. Naibu wa Spika, ninamaanisha kwamba wakulima wanalipwa pesa kidogo. Je, Waziri Msaidizi anaweza kufanya uchunguzi ili kubainisha ni kwa nini wakulima wa kahawa katika sehemu zote za nchi wanalipwa pesa kidogo?

Mr. Sumbeiywo: Bw. Naibu wa Spika, ninakubaliana na Bw. Kalulu ambaye ameuliza Swali hili kwamba pesa ambazo wakulima wanalipwa zinacheleweshwa. Hii ni kwa sababu pesa hulipwa kwa chama cha ushirika cha sehemu fulani. Baadaye, pesa hizo hulipwa wakulima wa kahawa. Sikubaliani na Bw. Kalulu anaposema kwamba kuna shida Kenya nzima, lakini kama kutakuwa na shida, kuna Mswada ambao utaletwa katika Bunge hili na utarekebisha mambo hayo.

Mr. Kalulu: Jambo la nidhamu, Bw. Naibu wa Spika. Bw. Waziri Msaidizi usihadae Bunge hili kwa kusema kwamba hukubaliani nami kwa sababu ukienda katika sehemu zote za nchi hii utakuta kwamba pesa kutoka soko la dunia hucheleweshwa na Shirika la Kahawa la Kenya. Je, Waziri Msaidizi anaweza kufanya uchunguzi kubainisha ni kwa nini pesa hizo huchelewa sana? Pia, ni kwa nini zikifika katika shirika hilo, malipo yanakuwa ya chini?

Mr. Sumbeiywo: Bw. Naibu wa Spika, ninafikiri nimejibu maswali hayo yote. Nimesema kwamba pesa huchelewa kwa sababu zinapitia katika vyama vya ushirika. Wakati mwingine, bei inapanda au inashuka. Hapo mbeleni nilisema kwamba Mswada utaletwa katika Bunge hili, na utatatua shida ambazo wakulima wa kahawa wanapata sasa.

Question No.056

COMMISSIONS ON UNEMPLOYMENT

Mr. Murungi asked the Minister for Labour:-

- how many commissions have been appointed by the Government to study and make recommendations on the question of unemployment in the last 20 years;
- what recommendations were made by those commissions; and,
- what steps have been taken to implement the said recommendations.

The Minister for Vocational Training (Mr. Ruto): Mr. Deputy Speaker, Sir, I beg to reply.

(a) Two commissions/committees have been appointed by the Government to study and make recommendations on the question of unemployment in the last 20 years. These are:- The Presidential Committee on Unemployment under the chairmanship of Mr. Maina Wanjigi in 1982, and the Presidential Committee on Employment under the chairmanship of Mr. Philip Ndegwa in 1990.

(b) While identifying Kenya's main assets as its people, and noting the challenge of creating employment

opportunities for the ever-increasing labour force, the two commissions made a number of recommendations. Key among the recommendations were:- Transformation of the economy to be able to absorb the increasing labour force; improvement of education and training systems in terms of relevancy, efficiency and effectiveness; strengthening employment and labour market policies through improving labour administration, utilising idle capacity of both private and public sectors; enhancing professionalism in the Civil Service, and improving employment services. The other recommendations included: the need for sound macro-economic policies such as proper management of public affairs; increase in private sector investment; promoting growth of the informal sector, and creating conducive political environment.

(c) Arising from the recommendations made by the two commissions, the Government has put in place measures to address the daunting unemployment problems in the country. Some of these include: attracting direct foreign investment; de-regulation and liberalisation measures; improving infrastructure; improvement in governance and management of public affairs; promotion of foreign employment; promotion of micro and small enterprises, and review of employment and labour market policies.

Mr. Murungi: Thank you, Mr. Deputy Speaker, Sir. Actually, the Minister has not been answering my Question. He must be answering an imaginary question. For the last 20 years, this Government has been suffering from what Karl Marx called "the poverty of ideas". The KANU Government has been very insensitive to unemployment and poverty among the youth in this country. Now, could the Minister avoid all the rhetorics and the wrong words he was using, and instead tell us the specific measures the KANU Government has taken to create employment for the youth in this country in the last ten years? Be very specific.

Mr. Ruto: Mr. Deputy Speaker, Sir, first of all, I think the reference to Karl Marx is just a diversion of the issue at hand. I have enumerated the specific actions that the Government has taken towards alleviating unemployment in the country. More specifically, if he is referring to the youth, I mentioned about the improvement of micro and small enterprises. Employment includes employment in the informal sector, and we are, at the moment, promoting Jua Kali and the micro and small enterprises. I would like to say that many employment opportunities have been created in that sector. In other areas, when you are improving the micro economic situation, that in itself will create employment opportunities.

Mr. Omingo: Thank you, Mr. Deputy Speaker, Sir. This is one of the youngest Ministers, whom I hold respect for in terms of ideas. But in his answer, he has said that one of the measures that the Government is taking is transformation of the economy. Secondly, he has said the Government is improving the micro-economy of this country, including Jua Kali and artisans. For the first time, the economy has grown backwards. Secondly, we have seen kiosks being demolished and hawkers being chased round like rats. Could the Minister confirm now that the Government's policies are actually being adhered to, or these are simple rhetorics to win votes from members of the public?

Mr. Ruto: Mr. Deputy Speaker, Sir, the Structural Adjustment Programme is well understood. When it was adopted, obviously, some of the benefits would take long to be realised. But when my colleague talks about demolition of kiosks and disrespect to hawkers, I would like to state that the policy of the Government is to provide a proper working environment for even those hawkers. This includes resettlement of hawkers. Like I said the other day, we are resettling some of the hawkers in Nairobi and the beach boys in Mombasa. These are some of the issues that can point to the fact that we are concerned about this particular sector.

Mr. Angwenyi: Mr. Deputy Speaker, Sir, the Minister has listed various policies that will enhance and promote creation of employment. Could he tell us the level of unemployment right now, and could retrenchment be one of the objectives of those policies?

(Applause)

Mr. Ruto: Mr. Deputy Speaker, Sir, I indicated that the streamlining of the Civil Service and improving efficiency is intended to address part of unemployment. When we talk about retrenchment, we should not look at it at the face value. Those employees who have been retrenched will find their places in both the informal and private sectors.

Hon. Members: Where?

Mr. Deputy Speaker: Order! Order!

Mr. Angwenyi: On a point of order, Mr. Deputy Speaker, Sir. He has not told us what the level of unemployment is.

Mr. Deputy Speaker: Order! Order!

Proceed, Mr. Murungi!

Mr. Murungi: Thank you, Mr. Deputy Speaker, Sir. Just before the 1997 elections, the KANU Government came up with what they were calling the National Youth Development Programme (NYDP) and for which we contributed Kshs200 million of the taxpayers' money. Would the Minister admit that the NYDP was a mere campaign gimmick and that it has not generated any employment for the youth in this country?

Mr. Ruto: Mr. Deputy Speaker, Sir, I hope the people of Meru Central are not listening to the hon. Member because he could easily be lynched by the youth. They received the money and invested it in their various projects, including raising chicken and allied investments. If the hon. Member does not know about this, then I am really worried. This man might be lynched any time.

(Laughter)

Mr. Deputy Speaker: Next Question, Eng. Muriuki!

Eng. Muriuki: Mr. Deputy Speaker, Sir, I have not received the written answer and I would like to have it.

Question No.355

SHORTAGE OF HEART SPECIALISTS

Eng. Muriuki asked the Minister for Medical Services:-

(a) if he could explain why hospitals lack specialized medical personnel and equipment to treat such health problems as heart ailments;

(b) how much money, approximately, Kenyans have spent in search of specialized treatment abroad, in the last ten years; and,

(c) what the Government is doing to make Kenya self-sufficient in the treatment and/or surgery of heart ailments.

The Minister for Medical Services (Mr. Mohamed): Mr. Deputy Speaker, Sir, I apologise for not sending a written answer to the hon. Member. But I have one, I can give it to him.

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

(a) The treatment of heart ailments requires expensive and specialized equipment and well trained personnel. As such, it is not possible to equip all hospitals to offer this treatment.

(b) It is not possible to state the amount of money spent on treatment abroad since this is largely privately done and the Ministry has no records of Kenyans seeking specialized treatment outside this country.

(c) The Government is in the process of improving equipment at Kenyatta National Hospital (KNH) and other referral hospitals, as well as training personnel at all levels to improve the ability to manage and treat heart ailments.

Eng. Muriuki: Mr. Deputy Speaker, Sir, Kenyans are spending a lot of money sending citizens for treatment in various parts of the world. Is the Minister saying that it is so expensive that we cannot have treatment units for heart and kidney ailments? How much money does it require so that we can be self-contained in this country?

Mr. Mohamed: Mr. Deputy Speaker, Sir, we are already self-contained. We have all the necessary equipment and staff at KNH.

Eng. Toro: Mr. Deputy Speaker, Sir, the Minister should be very serious about this issue. Most Kenyans are dying because of heart ailments because they cannot afford to raise money to seek treatment abroad. There are no facilities for them to be treated in our hospitals. Notwithstanding the issue of facilities, our Kenyan specialist doctors are going overseas to be employed in hospitals where there is equipment. Could the Minister tell Kenyans, and assure this House, that the Government will remunerate all qualified doctors who are seeking employment abroad and have the equipment in place so that those doctors can come back and serve Kenyans?

Mr. Mohamed: Mr. Deputy Speaker, Sir, it is true that some people are spending money outside this country, but those are people who have money. But as far as the Government is concerned, staff statistics in public health institutions are as follows:-

Cardiologists	-	5
Cardiac surgeons	-	4
Cardiac anaesthetists	-	4

Mr. Muite: On a point of order, Mr. Deputy Speaker, Sir. We have difficulties in following the words

that the Minister is trying to pronounce. Could he be more eloquent so that we can follow or seek assistance from the Professor?

Mr. Deputy Speaker: Proceed, Mr. Minister!

Mr. Mohammed: Mr. Deputy Speaker, Sir, it is unfortunate that I do not understand Kikuyu language. If he wants me to speak in Kikuyu language, I cannot.

(Laughter)

Mr. Deputy Speaker: Order!

Dr. Kulundu: Mr. Deputy Speaker, Sir, first of all, it is not true that treating heart illness is an expensive exercise. Probably, the only category of heart ailments which are expensive are the surgical ones. That notwithstanding, could the Minister tell this House why KNH has invested nearly Kshs1 billion in collapsing banks instead of buying equipment that would be useful?

Mr. Mohamed: Mr. Deputy Speaker, Sir, I am not aware that KNH has invested billions of shillings in collapsing banks. I would like to assure the House that KNH has proper equipment and has attended to the following patients in the following years:

Year	No. of patients	
	adults	children
1998	4,607	1,598
1999	5,373	1,673
2000	4,455	1,485
2001 June	2,681	849

Mr. Deputy Speaker, Sir, the number of in-patients is as follows:

1998	3,215
1999	3,892

Eng. Toro: On a point of order, Mr. Deputy Speaker, Sir. Could the Minister be relevant to the question that has been asked? We are talking about specialized treatment for heart diseases. He is answering a general question of the number of patients that have been treated.

Mr. Deputy Speaker: Order! Order! Dr. Kulundu asked the Minister to explain why KNH is not spending its money to buy equipment to treat patients here. The Minister is merely explaining to you that, in fact, KNH is capable. He is giving you the figures to indicate that capability.

Mr. Muchiri: Thank you, Mr. Deputy Speaker, Sir. Thousands of Kenyans are dying every day. Could the Minister consider waiving mortuary charges for Kenyans who die? A dead body cannot pay for itself. It is only the relatives who are charged.

Mr. Mohamed: Mr. Deputy Speaker, Sir, my Ministry does not run mortuaries. The mortuaries are run by Nairobi City Council and other local authorities, which are controlled by the Democratic Party of Kenya (DP).

(Laughter)

Mr. Deputy Speaker: Order! Order!

Eng. Muriuki: Mr. Deputy Speaker, Sir, in part (b) of my Question, I asked the Minister approximately how much money has been spent by Kenyans in search of specialised treatment abroad in the last ten years, and he said that he did not know. Is he saying that the Government is not interested in establishing the amount of money Kenyans spend abroad because we do not have our own adequate facilities in the country?

Mr. Mohamed: Mr. Deputy Speaker, Sir, I said clearly that my Ministry does not have the records relating to the amount of money that has been spent by Kenyans seeking specialised heart treatment abroad because people with heart ailments go to their doctors, who refer them directly to doctors abroad; they then make their own arrangements for treatment abroad. So, as I have said, I cannot answer that question.

Hon. Members: On a point of order, Mr. Deputy Speaker, Sir!

Mr. Deputy Speaker: Order! Order! Dr. Kulundu's Question had already been answered---

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

Mr. Deputy Speaker: Order! Order!

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

Mr. Deputy Speaker: Order! Mr. Sifuna, you have been in this House long enough to know that when the Chair is making a statement, you should keep quiet.

[Mr. Deputy Speaker]

Hon. Members, Dr. Kulundu's Question has been put on the Order Paper by mistake; it has already been answered.

Dr. Ochuodho's Question for the second time!

Dr. Kulundu: On a point of order, Mr. Deputy Speaker, Sir. When my Question was called out last time, Question Time was running out. In fact, even the Minister had not given a complete answer to it when Question Time ran out. So, the Question was deferred.

Mr. Deputy Speaker: Come again, Dr. Kulundu!

Dr. Kulundu: Mr. Deputy Speaker, Sir, I said that my Question was deferred because there was very little time left when it was called. The time was approaching 3.30 p.m., and the Speaker deferred it to this week.

Mr. Deputy Speaker: So, was the Question not answered at all?

Dr. Kulundu: Mr. Deputy Speaker, Sir, the Minister gave the written answer to the Question but we did not have a chance to ask supplementary questions.

Mr. Deputy Speaker: Very well. We will then defer the Question to this afternoon.

Dr. Kulundu: Mr. Deputy Speaker, Sir, the Assistant Minister is here.

Mr. Deputy Speaker: Where is he?

Dr. Kulundu: He is seated on the third row behind the Front Bench, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Mr. Assistant Minister, are you ready to answer this Question now?

The Assistant Minister for Roads and Public Works (Eng. Rotich): Yes, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Very well. You may ask the Question, Dr. Kulundu.

Question No.417

MEASURES TO CURB ROAD ACCIDENTS

Dr. Kulundu asked the Minister for Roads and Public Works:-

(a) whether he is aware that there have been numerous fatal accidents between Shibuli and Shianda Markets, along Road C40, in the last three years;

(b) what urgent steps he is taking to contain these accidents.

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

Mr. Sifuna:---(inaudible)

Mr. Deputy Speaker: Order! Order! Mr. Sifuna, I order you to leave this Chamber and the precincts of Parliament for the rest of this morning's sitting.

(Mr. Sifuna withdrew from the Chamber)

Mr. Deputy Speaker: You may now proceed, Mr. Assistant Minister.

The Assistant Minister for Roads and Public Works (Eng. Rotich): Mr. Deputy Speaker, Sir, I was under the impression that this Question had been answered. However, if I am to answer it, I will answer it again.

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

(a) I am aware that there have been numerous accidents between Shibuli and Shianda Markets, along Road C40, in the last three years.

(b) The Ministry is in the process of replacing the necessary road signs and markings. We will also continue to educate motorists and cyclists to use this road safely.

Dr. Kulundu: Mr. Deputy Speaker, Sir, the distance between Shibuli and Shianda is about 15 kilometres. There have been many accidents because that stretch of the road has many sharp bends, and buses and matatus tend to over-speed. So, when the Assistant Minister talks about placing a single pedestrian crossing point and training a single cyclist, he is not being serious. In fact, the Kakamega and Mumias/Butere District Development Committees (DDCs) made a recommendation to the Ministry to put rumble strips and bumps at various points between Shibuli and Shianda Markets in an effort to curb accidents. The impression created by the Assistant Minister is that it is cyclists who are normally knocked down by motor vehicles. That is not the correct position. It is, in fact, matatus and buses that crash so often because of the sharp bends along that section of the road.

The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports (Mr. Osundwa): On a point of information, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Who do you want to inform?

The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports (Mr. Osundwa): My colleague, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Order, Mr. Osundwa! Proceed, Eng. Rotich.

Eng. Rotich: Mr. Deputy Speaker, Sir, I am aware of what the hon. Member has said. We have not received the minutes of Mumias/Butere and Kakamega DDCs. As soon as we receive the minutes, we shall install bumps on that section of the road.

Eng. Toro: Mr. Deputy Speaker, Sir, I am frightened by the answer given by Eng. Rotich. We have engineers in the Ministry of Roads and Public Works. Specialisation in highway designs is not subject to DDC resolutions. The Ministry is capable of designing roads and putting on them the necessary safety precautions. Rumble strips and bumps are not recommended on highways. Could the Assistant Minister tell this House what measures the Ministry is going to take to improve the safety on that road?

Eng. Rotich: Mr. Deputy Speaker, Sir, I agree with Eng. Toro, but bumps are not part of road design. Roads are supposed to be smooth, and we do not have to build bumps across them. Also, they should not have potholes. Most of the accidents that occur on our roads are caused by drivers. It is very difficult to address the situation unless we appreciate the problem and control ourselves. It is a very difficult situation. The only way to control over-speeding is to build bumps across that road. However, bumps are not part of road design. When you build a road, you do not put bumps across it.

Mr. Keriri: Mr. Deputy Speaker, Sir, the Assistant Minister has talked about replacement of road signs along the road. I am sure that the Assistant Minister is aware that metal plate sign boards are frequently vandalised and stolen by people who use them to make certain items. Has the Government got any intention of replacing metal sign boards with some other type of sign boards which cannot be stolen or vandalised?

The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports (Mr. Osundwa): On a point of information, Mr. Deputy Speaker, Sir. I would like to inform my colleague that---

Mr. Deputy Speaker: Order, Mr. Osundwa! This Assistant Minister is a Member of the Government you are serving. So, if you want to inform him, you can do so in his office and not here.

Eng. Rotich: Mr. Deputy Speaker, Sir, we are looking into the possibility of using concrete sign boards, which cannot be stolen. We have been using aluminium sign boards, many of which have been stolen.

Mr. Gitonga: Mr. Deputy Speaker Sir, could the Assistant Minister consider re-aligning and re-designing this particular section of the road? The very many bends on that section of the road are mostly responsible for the many accidents that occur on it.

Eng. Rotich: Mr. Deputy Speaker, Sir, the problem is not the design of that road; the problem is over-speeding by motorists.

Mr. Deputy Speaker: Could you ask the last question, Dr. Kulundu?

Dr. Kulundu: Mr. Deputy Speaker, Sir, badly constructed bumps could, sometimes, be the cause of accidents. Of course, over-speeding is the leading cause of road accidents. What policy does the Ministry have to ensure that public service vehicles are installed with speed governors?

Eng. Rotich: Mr. Deputy Speaker, Sir, I think my colleague is aware that when we tried to introduce speed governors last time, we had a lot of political problems. We are trying to look into that possibility again and see whether it will work this time round. We had a lot of problems when we tried to introduce speed governors for public service vehicles last time.

Mr. Deputy Speaker: Dr. Ochuodho's Question for the second time!

Dr. Ochuodho: Mr. Deputy Speaker, Sir, I do not have a written reply from the Minister.

Question No.206

CRITERIA TO DECLARE HARDSHIP AREAS

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

- (a) what criteria the Government uses to declare an area a hardship or arid and semi-arid area, especially with regard to deployment of teachers;
- (b) whether there are any plans to declare Homa Bay District a hardship area, considering crop failure during the last harvest, increasingly prolonged dry spells, unusual lake flooding, broken infrastructure and the hyacinth menace; and,
- (c) what preferential treatment can the district expect in order to stem the abject poverty and

looming famine in the area.

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

An hon. Member: The Assistant Minister has not apologised for having not responded during the first time! He should apologise to the House!

Mr. Deputy Speaker: Mr. Haji, this is the second time we are asking this Question and you owe the House an apology.

The Assistant Minister, Office of the President (Mr. Haji): Mr. Deputy Speaker, Sir, unfortunately, the Minister who was supposed to answer the Question is not there. So, I have taken it upon myself to stand in for him.

Mr. Deputy Speaker: No, apologise to the House first.

The Assistant Minister, Office of the President (Mr. Haji): Mr. Deputy Speaker, Sir, I apologise for coming in late.

(a) In classifying hardship areas, the Government takes into account areas which are considered difficult to live in due to either climatic problems, inaccessibility to basic infrastructure, insecurity or a combination of these factors. In order to compensate civil servants who work in such environments, the Government pays them a monthly hardship allowance.

(b) The Government is in the process of reviewing the following: One, criteria used in declaring certain areas as hardship areas, in view of development trends in this country. Two, harmonization of hardship areas to apply to all organisations in the public service. Once the above issues are sorted out, it would be possible to determine whether Homa Bay District merits to be classified as a hardship area or not.

(c) This will be determined after the said review of the issues related to classification of hardship areas has been done.

Dr. Ochuodho: Mr. Deputy Speaker, Sir, considering that the factors the Assistant Minister has enumerated are rampant in many districts in this country, for example, erratic weather conditions, infrastructure and insecurity, could he tell this House which districts currently qualify for hardship consideration? Could he also tell us how many of these districts are considered as hardship areas by the Civil Service? This is because I believe, for teaching purposes, they use a different list. How many of those districts qualify for TSC consideration purposes?

Mr. Haji: Mr. Deputy Speaker, Sir, in the Civil Service, the following areas are gazetted as hardship areas: North Eastern Province: Isiolo, Lamu, Marsabit, Samburu, Tana River, Turkana, West Pokot, Baringo, including Mau and the new district of Koibatek.

In the teaching service, the following areas are considered hardship areas: Mfungamano and Rusinga Islands in Suba District, Nyamachuria Division in Kuria District, Osieko and Musire Divisions in Busia District, Kajiado District, Lower Solai, Koibatek District, Laikipia District, Kitui, Ganze, including Kilifi, Kerio Valley, Marakwet, Kinango Division and Samburu in Kwale District. Trans Mara, Mwingi, Tharaka, Mbeere, Kina, Magarini, Masinga, Kieni, Ndeiya, Makuyu, Muhoroni and Mutala divisions, part of Sondu and Kakuzi Division in Thika District.

Mr. P.K. Mwangi: Mr. Deputy Speaker, Sir, I have heard the Assistant Minister mentioning Makuyu Division as part of the hardship areas. That is true. Could he assure this House that the whole of Makuyu Division, as it was originally, would be considered as a hardship area? He forgot mentioning Maragwa Ridge Location which is very much affected by drought within that district.

Mr. Haji: Mr. Deputy Speaker, Sir, I said in my earlier reply that the whole question of classifying hardship areas is going to be reviewed. During this review, if the area which the hon. Member has pointed out qualifies to be a hardship area, it will be considered. If it does not qualify, then it will be very unfortunate.

Dr. Kulundu: Mr. Deputy Speaker, Sir, the Assistant Minister has cited various criteria for declaring an area a hardship area. In view of the severe deterioration of infrastructure countrywide, could the Assistant Minister consider declaring the whole of Kenya a hardship area?

Mr. Haji: Mr. Deputy Speaker, Sir, this is not possible because even in this House, there are some people who qualify for hardship allowance. For example, I find it to be very cold in this Chamber.

Dr. Ochuodho: Mr. Deputy Speaker, Sir, I am surprised that among the names on the list which the Assistant Minister has just read out, Homa Bay District is missing. The reason why I am saying this is that in terms of communication, roads have been washed away and the rail system that used to be there is not there. The water transport that used to be there is not there. Indeed, the hyacinth problem, insecurity, collapse of the cotton industry and the erratic weather conditions have aggravated poverty in the district. In view of these factors, could the Assistant Minister consider declaring Homa Bay District a hardship area so that teachers can benefit even if

that would mean abandoning the other civil servants?

Mr. Haji: Mr. Deputy Speaker, Sir, the TSC is outside our jurisdiction. I would advise the hon. Member to take up the issue with the TSC. As for the civil servants, I said there will be a general review and I hope, during that review, something will be done.

Mr. Weyrah: Mr. Deputy Speaker, I apologise for coming to the House late. Secondly, I have not got a written reply from the Minister. Could I get a written reply from him?

Question No.389

MAINTENANCE OF MASALANI/IJARA AIRSTRIP

Mr. Weyrah asked the Minister of State, Office of the President when the Ministry will resume maintenance of Masalani/Ijara Airstrip.

The Assistant Minister, Office of the President (Mr. Samoei): Before I reply, I beg to apologise because a written answer was not forwarded to the hon. Member.

The Ministry will resume the maintenance of Masalani/Ijara Airstrip when funds become available.

Mr. Weyrah: Mr. Deputy Speaker, the last time Masalani/Ijara Airstrip was maintained was in 1963. Could the Assistant Minister tell us whether Ijara is not part of Kenya because these days, you cannot reach Ijara by air. Could he assure this House that maintenance of the airstrip would resume? This is because the last time it had been maintained was in 1963 and to date, nothing has been done. Could the Assistant Minister assure this House that Ijara Airstrip will be maintained as soon as possible, not as soon as the funds become available?

Mr. Samoei: Mr. Deputy Speaker, Sir, as the hon. Member has enumerated, this airstrip is not in use as such. It has been in the list of priority airstrips that we have earmarked for maintenance, although it is not quite high in our priority list. However, I will take the sentiments of the hon. Member into consideration.

Dr. Ali: Mr. Deputy Speaker, Sir, I would like to ask the Assistant Minister why the airstrips which were functional during the colonial period were neglected to such an extent that, even if you have a problem like the *El Nino* and other emergency cases, especially in northern Kenya, you cannot use the airstrips which were used during the colonial times? Could the Assistant Minister do something about them?

Mr. Samoei: Mr. Deputy Speaker, Sir, I have already said that we will make considerations along the lines the hon. Member has made a request.

Mr. Munyaio: Mr. Deputy Speaker, Sir, in order for hon. Members to believe the Assistant Minister, can he tell us how much he intends to spend on this airstrip when funds will be available?

Mr. Samoei: Mr. Deputy Speaker, Sir, I do not have the Budget now. However, as and when we are ready to budget some money for that airstrip, I will make the estimates available.

Mr. Keynan: Mr. Deputy Speaker, Sir, is the Assistant Minister aware that in 1997, during the *El Nino*-induced floods, Ijara District was cut off from the rest of Kenya? It was not accessible by road and air and the residents were completely cut off from the rest of the country for four consecutive months. So, many of them died as a result of lack of food. Could he make that airstrip a priority, instead of saying that it has not been used for quite some time?

Mr. Samoei: Mr. Deputy Speaker, Sir, I will advise the Kenya Airports Authority accordingly.

Question No.392

HARDSHIP ALLOWANCE FOR GOVERNMENT OFFICERS

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

(a) whether he is aware that Government officers in Kitui South are not paid hardship allowance despite the area being arid; and,

(b) when he will pay the said officers hardship allowance.

Mr. Deputy Speaker: There is information that the Minister is not here. So, we will see whether that Question can be maintained on the Order Paper, because it is blocking other Questions for Mr. Kiminza.

(Question deferred)

Questions by Private Notice!

QUESTIONS BY PRIVATE NOTICE

VEHICLES FOR DISTRICT OFFICERS

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

(a) Is the Minister aware that the District Officers in the two divisions in South Mugirango have no vehicles?

(b) Is he further aware that as a result of (a) above, it is impossible for the officers to deal with urgent security matters?

(c) What action is the Ministry taking to provide the officers with vehicles?

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

(a) I am aware that Nyamarambe and Etago divisions have no vehicles attached to them currently.

(b) However, I am not aware that security operations are impeded, as the two divisions are adequately catered for by two police stations, namely, Etago and Nyamaiya, which have adequate vehicles and communications equipment.

(c) The Government will provide vehicles to the two divisions as soon as I have a budget to cover the purchase.

Mr. Omingo: Mr. Deputy Speaker, Sir, this is one of the young Assistant Ministers whom I have a lot of confidence in, but this time, he may not get away with it. The DO in each division is in charge of security. It is common knowledge that for the first few months, this division, Etago, has been a clash-torn area between Kisiis and Maasais in Trans Mara region. Could the Assistant Minister now tell us, when the DO requires transport, must he go to the police and beg? This is the more reason why, instead of the DO going to the border areas where clashes are going on and look for solution, the police officer and his juniors are in the division pursuing chang'aa brewers. This is a consequence of that. Could he tell us who is in charge of security and where the DO gets instructions from? Does a DO get instructions from the police, or should he be the one to provide instructions to the police?

Mr. Samoei: Mr. Deputy Speaker, Sir, I have admitted that the two DOs do not have transport currently. But I have also said that the two police stations, namely Etago and Nyamaiya, have police transport. The DO is the one who oversees the general security situation in the division. Under his command, there is a police station and police officers. There is mutual co-operation between these two sectors of administration. While I admit that the DOs have had encumbrances in performing their duties, I have said that I will look keenly into providing some means of transport for these officers.

Mr. Angwenyi: Mr. Deputy Speaker, Sir, in view of the fact that the Government is not able to provide those DOs with facilities, including vehicles, and thereby rendering them idle and they become drunkards, could he consider disbanding the positions of DOs countrywide?

Mr. Samoei: Mr. Deputy Speaker, Sir, District Officers are very responsible Government officers, as opposed to the statement made by the hon. Member to the effect that they are drunkards. Maybe, when Mr. Angwenyi forms his Government, he can disband the positions of DOs. But as it stands now, we have no intention to disband those positions.

Mr. Obwocha: Mr. Deputy Speaker, Sir, did you hear Mr. Samoei saying when "Mr. Angwenyi forms his Government," when Mr. Angwenyi is in KANU and the KANU Government is in power?

(Laughter)

Anyway, the question that I wanted to ask is this: In view of the fact that most police stations have old Mahindra vehicles, which were brought into this country through corruption, could he tell us what type of vehicles are in Nyamaiya and Etago police stations, which he believes that the DOs can use for their operations in those security areas?

Mr. Samoei: Mr. Deputy Speaker, Sir, the two police stations have Land Rover vehicles. In the last two years, the Government has acquired over 700 Land Rovers, which have been distributed around the country. Unfortunately, the Mahindra vehicles were there, but we now have proper motor vehicles that service our police stations and our DOs.

Mr. Omingo: Mr. Deputy Speaker, Sir, the Assistant Minister has said that there are Land Rovers. I

want to inform him that most of the time, those Land Rovers are not serviceable, notwithstanding what the Attorney-General told us in this House, that 28 districts were formed illegally. Perhaps, that is one of the reasons why the Government cannot provide transport for the DOs who were brought into office illegally. Could he confirm or deny that my neighbour, and I do not want to mention his name, got one of those new Land Rovers as opposed to my area which is in dire need of one? Could he produce a list of those 700 Land Rovers and where they were sent to, district by district?

Mr. Samoei: Mr. Deputy Speaker, Sir, the Land Rovers are Government vehicles, and they keep changing from one destination to the other. I will not be able to give a list of the Land Rovers and where they are, but they have been distributed fairly across the country.

Ms. Karua: On a point of order, Mr. Deputy Speaker, Sir. The hon. Member had asked for a list showing the distribution per district. Is it in order for the Assistant Minister to say he cannot give a list when he is the one who introduced the issue of numbers? It is important for the House to actually see that they were fairly distributed in the manner he says. The only way to prove this is for him to table the list. Is it in order for him to avoid the question?

Mr. Deputy Speaker: I understood the Assistant to say that he was unable to produce that list now. If you want him to produce it later, please, say so. Do not confuse issues.

Mr. Omingo: Mr. Deputy Speaker, Sir, can you then direct him to produce the list at a later date?

Mr. Samoei: Mr. Deputy Speaker, Sir, I said that the Land Rovers are Government vehicles. Government vehicles are not allocated to people or stations. They are used by Government officers in whatever station they are in this country. We keep moving these vehicles as and when we need them in particular stations in the country. I am not in a position to give specifics.

Mr. Omingo: Given the importance of accountability and control over the Government inventory system, is the Assistant Minister in order to tell us that vehicles are moved in a careless manner, to an extent that most cars cannot be accounted for?

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

Mr. Omingo: Is it in order for the Assistant Minister---

Mr. Deputy Speaker: That does not make it a point of order.

Ms. Karua: What about the list?

Mr. Deputy Speaker: Next Question!

AIRPORT RUNWAY TENDER AWARD

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

(a) Is the Minister aware that a tender for the re-painting of the runway at the Jomo Kenyatta International Airport has been irregularly awarded by the Kenya Airports Authority?

(b) Is he further aware that the Corporation has purchased a tractor for cleaning the runway at Kshs35 million?

(c) What urgent steps is he taking to ensure that public funds are prudently used in these transactions?

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

(a) I am not aware that there is any tender for the painting of a runway which has been irregularly allocated by the Kenya Airports Authority.

(b) I am also not aware that a tractor has been purchased for the cleaning of the runway at the cost of Kshs35 million.

(c) Arising from my answers in parts "a" and "b" of the Question, part "c", therefore, does not arise.

Mr. Wamunyinyi: Mr. Deputy Speaker, Sir, the Kenya Airports Authority (KAA) has been hit by numerous scandals. Similarly, nearly all State Corporations have been looted and so many rip-offs have been witnessed through irregular awards of tenders.

Mr. Deputy Speaker: Ask your question!

Mr. Wamunyinyi: The question I want to ask is this: Could the Assistant Minister confirm or deny that Adra Limited, where one Mr. Raj Devani and Mr. Philip Moi are directors, was irregularly awarded this tender to paint the runway and purchase machinery for cleaning?

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

Mr. Wamunyinyi: I have information to the effect that machinery worth Kshs300 million is being purchased for the cleaning of the runway at the Jomo Kenyatta Airport, and the President's son is involved.

Mr. Deputy Speaker: Order! If you have documents to prove your allegations, then lay them on the Table.

Mr. Wamunyinyi: Mr. Deputy Speaker, Sir, I will lay the documents on the Table this afternoon. This Question has been deferred everyday for the last five days.

Mr. Deputy Speaker: So, you should have been ready now.

Mr. Wamunyinyi: I was not expecting this Question to come this morning. I will do it in the afternoon.

Mr. Samoei: Mr. Deputy Speaker, Sir, on the allegations made by the hon. Member, I have been here twice to answer this Question while he was absent. He should not mislead this House by making general, sweeping and false statements about persons who cannot defend themselves in this House. The hon. Member said that mechanical sweeping equipment worth Kshs300 million is being purchased for cleaning the runway at the Airport. I do not know whether Mr. Wamunyinyi knows how to count up to 300 million. This mechanical equipment was purchased in 1997 at the cost of Kshs25 million and I can produce documents to that effect. There was competitive bidding for this exercise.

Mr. Keriri: I think we have got to get the records correct. The Assistant Minister has said that he was here to answer this Question when the hon. Member was absent. Normally, if an hon. Member is absent when his Question comes up, the Question is dropped. Can I get some clarification as to why this Question was not dropped if the Assistant Minister was present?

Mr. Deputy Speaker: Order! The hon. Member was unavoidably absent and he asked for this Question to be deferred. The Chair did make that statement. So, hon. Members, do not be over-anxious about minor things. Next Question!

SUGAR IMPORTATION BY KSA

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

(a) Under what circumstances did the Kenya Sugar Authority import 440,575 bags of sugar from South Africa?

(b) Why did the Authority fail to clear the imported sugar leading to the advertisement in the Kenya Gazette No.39 of 22nd June, 2001, to auction the sugar on 17th July, 2001?

The Assistant Minister for Agriculture and Rural Development (Mr. Sumbeiywo): Mr. Deputy Speaker, Sir, I beg to reply.

(a) Due to the acute sugar shortage in the second quarter of 2000, occasioned by a prolonged period of unfavourable weather, the Government mandated Kenya Sugar Authority to import 10,000 metric tonnes of sugar for the following reasons:

To meet the domestic demand for sugar and at that time, stabilise the market price for the commodity. Consequently, on 11th September, 2000, KSA embarked on the undertaking and sourced 2,000 metric tons, that is 40,000 50-kilogramme bags from the Republic of South Africa, which, at the time, offered the most competitive price.

(c) The KSA was unable to clear the imported sugar on time due to the following reasons: I have an "anticipated import duty" which shows that the KSA undertook to pay all the relevant duties, taxes and levies as the importation was on a purely non-profit basis. When the order for the sugar was made, import duty for the refined sugar users was 24.5 per cent, a position which changed immediately to 100 per cent on 29th September, 2000, vide legal notice No.116.

The COMESA Trade Agreement came into effect on 1st November, 2001. Kenya, being a signatory to the agreement, was obligated to allow duty-free, imports from COMESA countries. At the time of sourcing for the sugar, the free trade area agreement had not been entered into and the most competitive source for the sugar was a non-COMESA country, which was South Africa. The Republic of South Africa was not a member of COMESA at that time. Being zero-rated, large quantities of COMESA sugar gained access into the domestic market and had unfair price advantage over the sugar from the Republic of South Africa, which was priced at US\$660,000 on freight liner at Mombasa. Following the flooding of the domestic market with COMESA sugar, the retail price which had hit an all-time high of Kshs90 per kilogramme in September, 2000, tumbled to Kshs55 per kilogramme in the early part of 2001.

In order to off-load the South African-sourced sugar, duty paid at a break-even price, KSA would have had to sell the sugar at Kshs80 per kilogramme, a price which no trader was willing to accept under the circumstances. The KSA then proceeded to source for buyers who would purchase the sugar competitively. We are

informed that a buyer has been identified and modalities are under way to clear the sugar from the Port of Mombasa. In actual fact, by yesterday, the sugar was supposed to have been cleared from the Port.

Mr. Angwenyi: Mr. Deputy Speaker, Sir, the Kenya Sugar Authority (KSA) was established by this Parliament to assist sugar farmers in this country and not to compete with them. As you know, the KSA has placed under receivership Miwani and Muhoroni Sugar Factories so that it can import this sugar. But be that as it may, the Assistant Minister has said that the KSA was authorised to import 10 metric tonnes of sugar, but in fact, the Authority imported 50 metric tonnes. That is stated in the Gazette Notice, which indicates that, that sugar was supposed to be sold yesterday. I have a copy of this Gazette Notice, and I will table it before the House. The answer the Assistant Minister has been giving is wrong. But also, the KSA---

Mr. Deputy Speaker: Ask your question!

Mr. Angwenyi: Mr. Deputy Speaker, Sir, could the Assistant Minister confirm or deny that the KSA did not clear the sugar so that it could buy it cheaply without paying import duty and, therefore, defraud the Government of Kenya?

Mr. Sumbeiywo: Mr. Deputy Speaker, Sir, I deny that.

Dr. Ochuodho: Mr. Deputy Speaker, Sir, could the Assistant Minister tell the House how much money the KSA paid to procure nearly half a million bags of sugar, which is almost half our annual domestic consumption? How much did the KSA spend? How much did the Government expect to recover from this competitive sale of sugar?

Mr. Sumbeiywo: Mr. Deputy Speaker, Sir, as I said earlier on, the price of sugar at the time when the Government gave the licence for importation was Ksh90 per kilogramme. This importation was supposed to meet the domestic demand. The figures showing what the Government expected to get from the sale of the sugar are not available.

Dr. Ochuodho: On a point of order, Mr. Deputy Speaker, Sir. I asked a simple question: How much did the KSA pay to get this sugar, and how much does it expect after the sale of the sugar?

Mr. Sumbeiywo: Mr. Deputy Speaker, Sir, the KSA paid US\$660,000.

Mr. Deputy Speaker: How much does it expect to recover?

Mr. Sumbeiywo: Mr. Deputy Speaker, Sir, that can be calculated.

Mr. Deputy Speaker: You have already given a figure. What does the Authority expect to recover?

Mr. Sumbeiywo: Mr. Deputy Speaker, Sir, I do not have the figure that will be recovered from the sale of the sugar, but I can bring it tomorrow.

Mr. Deputy Speaker: You should bring the figure tomorrow afternoon.

Dr. Kituyi: Mr. Deputy Speaker, Sir, when the Assistant Minister says that the "unfavourable weather in the second quarter of the year 2000", at the very best he can only mean it was the dry season; a dry season in the sugar belt is a very favourable weather for harvesting sugar-cane. Under what circumstances did he arrive at the fact that the dry spell in the second quarter of the year 2000 meant a deficit in the domestic sugar production, which, in reality, turned out to be wrong? Immediately after that period, there was a flood of domestic sugar on our market. Sugar-cane is not similar to cattle. Why did the Assistant Minister refer to drought as an unfavourable season?

Mr. Sumbeiywo: Mr. Deputy Speaker, Sir, there was drought over the country, which extended to the sugar belt. That is why the Government anticipated this shortage of sugar and allowed its importation.

Dr. Kituyi: On a point of order, Mr. Deputy Speaker, Sir. Is the Assistant Minister in order to mislead the House that there was drought all over the country? That is factually wrong! There was no drought in Mumias area, which accounts for 70 per cent of the sugar production. There was no drought in Nzoia, but be that as it may, why should a dry spell be seen as an unfavourable weather when it is ideal for harvesting sugar-cane? The Assistant Minister should answer the question.

Mr. Sumbeiywo: Mr. Deputy Speaker, Sir, there was no mature sugar-cane to be harvested at that particular period. That is why the Government anticipated a deficit and allowed KSA to import this sugar.

Dr. Omamo: Mr. Deputy Speaker, Sir, importation of sugar into the country is one of the major problems that besets the sugar industry, especially when the imported sugar is dumped into the market. Could the Assistant Minister undertake to regulate importation of sugar in such a way that if there is a shortage, then that shortage is apportioned to the different local millers, so that we do not suffer price fluctuations?

Mr. Sumbeiywo: Mr. Deputy Speaker, Sir, the Ministry will undertake to regulate the importation of sugar in accordance with the COMESA agreement.

Mr. Angwenyi: Mr. Deputy Speaker, Sir, the Assistant Minister has said that the Government gave authority to KSA to import 10 metric tonnes of sugar, which is about 40,000 bags of sugar. But the KSA imported

480,000 bags of sugar. Why did it do that? What measures will the Government take to penalise the Authority for importing ten times what it should have imported?

Mr. Sumbeiywo: Mr. Deputy Speaker, Sir, the figure of the imported bags of sugar as given by the hon. Member is not correct.

Mr. Angwenyi: On a point of order, Mr. Deputy Speaker, Sir. I have got the Gazette Notice here, which states clearly that the imported sugar was 480,000 bags. It is here.

(Mr. Angwenyi laid the document on the Table)

Mr. Sumbeiywo: Mr. Deputy Speaker, Sir, the Government licensed the importation of 10,000 metric tonnes of sugar per month.

Dr. Kituyi: On a point of order, Mr. Deputy Speaker, Sir. There has been something worrisome this morning from this Assistant Minister, and I seek the guidance of the Chair. The Assistant Minister said that he did not know about South Africans wanting to buy the KCC, a very public matter that every person who reads newspapers knows about. You have now heard him saying that the figure is wrong and the amount of sugar imported was 40,000 bags of sugar. When he is confronted with the truth about the figure of 10 metric tonnes, he says that it was 40,000 bags of sugar per month. Why is he shifting ground when there is a change in information?

Will the Chair advise us whether we can take an Assistant Minister such as this one seriously? Is what he is saying a reflection of the kind of Government we are dealing with?

Mr. Deputy Speaker: Order! All you want from the Assistant Minister is an answer. If you are not satisfied with the Assistant Minister's reply, you do not heap abuses on him. There is a provision in the Standing Orders on what you should do. So, if you are not satisfied with that answer, follow your Standing Orders.

ALLOCATION OF MINISTRY'S LAND

Mr. Gitonga: Mr. Deputy Speaker, Sir, I beg to ask the Minister for Lands and Settlement the following Question by Private Notice.

(a) Is the Minister aware that the 15-acre piece of land hitherto belonging to the Ministry along the Nyambari-Nairobi-Naivasha Highway at the Uplands turn-off, has been allocated to a private developer?

(b) Who is the developer and what kind of development does he intend to carry out in the area?

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

(a) I am aware that, an approximately 15-acre piece of land hitherto belonging to the Forest Department at Nyambari-Nairobi-Naivasha Highway, has been allocated to an individual.

(a) The allottee is a Mr. Onesmus K. Ngunjiri. The land was allocated for agricultural purpose.

Mr. Gitonga: Mr. Deputy Speaker, Sir, the answer given by my good friend, Mr. J. Nyagah, is not only absurd, but very unfortunate, especially being given by a Minister of his status. I raised a Question on that piece of land in 1996, for the first time, when the wife of a very prominent Minister, who is well known for his scandals in this country, was about to grab that piece of land. The Minister then denied that, and said that the land still belonged to the Forest Department. In 1998, I brought a Question on the same piece of land to this House, and the Minister of State, Office of the President, Maj. Madoka - and he is here - answered the Question. I would like to read the answer that he gave in the HANSARD. He said:

"Mr. Speaker, Sir, when the kiosks where the President normally has a cup of tea were demolished, the owners relocated to plots at the back of the shops. We are considering allocating them the plots on the present Government land which is, as you know, situated opposite the kiosks in question. We have not done it yet, but it will be done."

Mr. Deputy Speaker, Sir, it is the same piece of land that has been allocated to an individual. In fact, to be specific, he is a KANU Chairman from Nakuru. The people of Lari are not ready to accept that kind of situation. The Minister has come here to tell us that the land, which formerly belonged to the Ministry of Environment and Natural Resources--- How did he transfer the land from the Ministry of Environment and Natural Resources to the Ministry of Lands and Settlement, and then given it to a KANU Chairman from Nakuru?

Mr. J. Nyagah: Mr. Deputy Speaker, Sir, to answer the last bit, the land was transferred by the Forest Department to us. That is how it came to us. Once it was transferred to us, we then proceeded, because of the great need for agricultural land in that area, to allocate the land to Mr. Ngunjiri. It is our understanding that the land will be used for agricultural purpose. The problem that I have is that, once land is surveyed and registered, it is very difficult to change it, unless I am ordered by the courts.

Mr. Kihara: Mr. Deputy Speaker, Sir, we would like to know whether it is Government policy to dish public land to KANU operatives, to construct monuments to their departed relatives, including the land that we have been told about; that, it is for agricultural purpose. Was it sold or given for free? Could he tell us at what price was it transferred to Mr. Ngunjiri?

Mr. J. Nyagah: Mr. Deputy Speaker, Sir, it is not Government policy to dish out land for the sake of it! However, it is Government policy to give land where it will be helpful to wananchi, for the development of agriculture. The land policy has been there from 1963 and most of these people benefited from the KANU policy. They are the biggest shareholders of land in this country.

Mr. Kirwa: Mr. Deputy Speaker, Sir, now that the Minister is aware that there was a Government position earlier on; that he had promised to give some of the landless people around the kiosks some land, what steps is he taking to ensure that some of those earlier stated allottees become beneficiaries to that particular land?

Mr. J. Nyagah: Mr. Deputy Speaker, Sir, I am sorry I was consulting with my colleague, Maj. Madoka. Could he repeat the question?

Mr. Deputy Speaker: He wants to know what you are doing about the people who had earlier been promised that land.

Mr. J. Nyagah: Mr. Deputy Speaker, Sir, in keeping with Government policy, we will look for land for landless people, including those particular people!

Mr. Deputy Speaker: Order, Mr. Minister! We do want to take Government commitments seriously! A Government Minister, in this House, stated clearly that, that land was going to be allocated to unfortunate Kenyans whose kiosks were demolished. So, really, we want to hear a consistent position regarding that land!

Mr. J. Nyagah: Mr. Deputy Speaker, Sir, we will try---

Mr. Deputy Speaker: I think to be fair to you, since you want to consult with your colleague, I will defer this Question!

Mr. J. Nyagah: Thank you, Mr. Deputy Speaker, Sir!

(Question deferred)

MINISTERIAL STATEMENT

HAPPENINGS AT THE ELECTRICITY REGULATORY BOARD

The Minister for Energy (Mr. Raila): Mr. Deputy Speaker, Sir, I would like to respond to the question raised by Ms. Karua, Member of Parliament for Gichugu, on 11th June, 2001, on the issue of happenings at the Electricity Regulatory Board (ERB). In doing so, I would like to thank Ms. Karua for having raised that matter. Secondly, I would like to take issue with an article which appeared in the *East African Standard* yesterday, in which, it purported to produce a draft of a letter which I am supposed to have written as a reply to the Director of the World Bank.

Mr. Deputy Speaker, Sir, it is unethical, even irrespective of freedom of the Press, for a respectable newspaper to pry and steal Government documents and reproduce them, even if those documents are not official. A letter which has not been signed is not a letter at all. Having said that, I would like to inform this august House that the Board was not removed from office illegally. The correct position is as follows:

I would like to inform the House that following the enactment of the Electric Power Act by the Seventh Parliament in 1997, which, among other things, provided for the establishment of the ERB; under Section 119, a Chairman and Board Members were appointed by the Government on 6th May, 1998, strictly in accordance with provisions of paragraph one of the Schedule to the Electric Power Act. The term of the Chairman was four years, and three years for the other Board members. As the ERB is a State corporation, and just like other State corporations, it is accountable to this House for its operations, including the management of its financial resources.

It was summoned, jointly with my Ministry, on the 22nd September, 2000, to appear before the Public Investments Committee (PIC) to clarify a number of issues relating to its operations. In attendance were officers from the Treasury, the Inspectorate of State Corporations and Office of the Auditor-General (Corporations). The issues raised by the PIC were:

- (i) Approval of the annual budgets in accordance with the provisions of Section 2 of the Electric Power Act, 1997.
- (ii) Emoluments of the Board and staff.

(iii) Auditing of the annual accounts by the Auditor-General (Corporations) in accordance with the provisions of Subsection 29(i) of the Exchequer and Audit Act, and Section 14 of the State Corporations Act.

Mr. Deputy Speaker, Sir, the investigations carried out by the Government had revealed serious financial anomalies and management improprieties which required immediate Government intervention. However, efforts by the Government to streamline the financial management of the ERB were met with stiff resistance by the Board. Given that situation, the Government decided not to renew the contracts of the Members of the Board, which expired on 5th May, 2001. For similar reasons, the Government terminated the contract of the Chairman in accordance with provisions of Paragraphs 2 and 5 of the Schedule to the Electric Power Act. Subsequently, the Government appointed a new Board with Mr. Mitine as the Chairman and again, in accordance with provisions of Paragraph 1 of the Electric Power Act, to ensure smooth operations of the ERB.

Mr. Deputy Speaker, Sir, in appointing Mr. Mitine as the Chairman, the Government had expected that by virtue of his long experience in public service and vast knowledge in financial management and procurement procedures, he would provide leadership to the ERB in streamlining its operations. However, despite Mr. Mitine having been adequately briefed on the reasons for the termination of his predecessor's contract and on the need for the new Board to put in place sound financial management in the ERB, he chose to adopt the management style of his predecessor for financial gains. The Government, therefore, terminated his contract for failing to comply with the provisions of Paragraph 3 of the schedule to the Electric Power Act, and in his place, appointed a Mr. Jeremiah Muriithi.

Mr. Deputy Speaker, Sir, as regards the role played by the Attorney-General and the Ministry of Agriculture and Rural Development in the two purported recent happenings, my response is as follows:

(a) The Attorney-General, as the chief legal adviser to the Government, had only given an opinion on the legal status of ERB as a State Corporation.

(b) The Ministry of Agriculture and Rural Development had no role to play whatsoever in the activities of the Board.

Mr. Deputy Speaker, Sir, finally, I would like to point out that all the actions taken are in line with the relevant provisions of both the Electric Power Act and the State Corporations Act, and that the Government is committed to ensure that the ERB functions as a fully autonomous and independent body.

Ms. Karua: Mr. Deputy Speaker, Sir, I am a bit disappointed with the statement given by the Minister who we know to be an honest person, and I hope that he is not starting to get affected by the side of the House he is sitting in.

Mr. Deputy Speaker, Sir, it is in the public domain that the real issue of the termination of the tenure of the past Board members and the Chairman arose over the dispute concerning the termination of services of the then Secretary to the Board; and that the Attorney-General's office tried to impose the reinstatement of the services of the former Secretary. It is also in the public domain that as regards the financial anomalies that are being referred to, there is a dispute as to the amount of remuneration for the Board members, on which there was correspondence between the Government and the Board, and also about whether the Board is executive or non-executive.

Mr. Deputy Speaker, Sir, while agreeing with the Minister that the tenure of the past Board had expired, could he tell us why the provisions of the Electric Power Act that state that the retirement of Board members should be standard was not followed?

Mr. Deputy Speaker, Sir, concerning the tenure of the chairman of the current Board, his tenure is for a fixed term of four years. It is common knowledge that even in Government procedures, if one is accused of irregularities, the accusations have to be put to him. Could the Minister tell us whether Mr. Mitine was given any opportunity to know the nature of the charges against him and an opportunity to reply? Secondly, could he also confirm that Mr. Mitine was sacked when he failed to comply with a directive from the Office of the President interfering with the Board's autonomy, by directing them to employ a Secretary without interview?

(Applause)

Mr. Deputy Speaker, Sir, I had also asked what are the implications of the power struggle in the Electricity Regulatory Board to the consumers, especially to the issue of rural electrification which we had hoped that the Board would streamline? I would wonder why the same Act has not fallen on incompetent managers at Kenya Power and Lighting Company, and especially the Managing Director?

(Applause)

The Minister for Energy (Mr. Raila): Mr. Deputy Speaker, Sir, I want to assure hon. Ms. Karua that I will never ever try to cover up anything. I have taken a lot of time to examine the documents that are available in my Ministry on this issue, and that there are certain allegations which cannot be proved. However, the issue that I have been talking about arises out of an audit query which is contained in the Controller and Auditor-General's report, and which resulted in members of the ERB and officials of the Ministry of Energy being summoned to appear before the PIC. Some of these issues include, for example, what---

Mr. Deputy Speaker: Mr. Raila, has that PIC report for that year been published?

The Minister for Energy (Mr. Raila): Yes, it has been tabled, Mr. Deputy Speaker, Sir. So, I would just want to refer to a few.

Mr. Deputy Speaker, Sir, the conflict of interests between some Board members, including the Chairman, for example; that all media advertisements for the ERB were carried out by Messrs. Assis Limited whose chairman is also the Chairman of ERB, and that a sum of Kshs2.5 million was spent on such advertisements, including a commission of Kshs115,000. All assets of ERB were insured through Messrs. Thabiti Insurance Brokers in which a former member of the ERB was also a majority shareholder, and this was not done through competitive bidding. The ERB paid this firm a total of Kshs1.89 million and evidence shows that it could have actually gotten the same coverage for much less.

Thirdly, the cleaning services were provided by Messrs. Lakoti Limited, a company owned by a spouse of the same former member of ERB, and that Kshs1.1 million was paid for the period of June 1999 to June 2000.

Mr. Deputy Speaker, Sir, the Board members incurred a total of Kshs800,000 just to attend the Mombasa ASK Show when, in fact--- In other words, the hotel and everything else was being paid for, plus the airfare and, at the same time, they were again claiming transport and accommodation expenses. So, there were definitely cases of financial improprieties that basically necessitated that.

Hon. Members: What about rural electrification?

The Minister for Energy (Mr. Raila): I am coming to that, Mr. Deputy Speaker, Sir.

Mr. Mitine, for just the period of two months that he was there; that is, from May to June of this year, paid himself a total of Kshs774,000, which was far beyond the amount that had been recommended, which was in line with the amount that is paid to chairmen of similar boards, like the Communications Commission of Kenya (CCK). So, it was far much in excess, and he resisted advice from the Government that he should pay himself allowances commensurate to his position, similar to what is being paid to commissioners, which are similar. The Act provides, of course, first, the functions of the Board, and I do not want to go through that. However, the Act provides for removal of the Chairman and I want to assure the Member that the removal of Mr. Mitine was done strictly in accordance with the provisions of the Act.

Mr. Deputy Speaker, Sir, just to wind up, on the issue of rural electrification, the ERB had nothing to do with it. I want to assure the Member of that. As a regulator, the ERB only deals with licensing of those who are involved in generation, transmission and distribution of electric power. The issue of allocation of resources in as far as Rural Electrification Programme is concerned rests exclusively with my Ministry.

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

Mr. Deputy Speaker: Order! You cannot rise on a point of order on another point of order! Ms. Karua!

Ms. Karua: Mr. Deputy Speaker, Sir, the Minister did not directly answer my question. I asked, in respect of the past Board, why the retirement of members was not staggered in accordance with the Act. If two members are said to have had conflicts of interest, that does not cover all the seven members. Why were they not staggered? In the case of Mr. Mitine, could the Minister tell us the amount of money he is claiming Mr. Mitine paid himself? Is it salary, and if so, has the Electricity Regulatory Board and the relevant Ministry, which is his Ministry, actually paid, or are they still in the process of exchanging correspondence, and are using [**Ms. Karua**] this as an excuse? Could the Minister also confirm that there has been a struggle over who is to be employed as the Secretary both in the previous Boards and in the current Board? Let us not avoid issues which are in the public domain.

The Minister for Energy (Mr. Raila): Mr. Deputy Speaker, Sir, I have actually given the reason. The Act says:

"The Chairman shall hold office for a term of four years, and shall be eligible for reappointment for a further term of three years, while the other members of the Board, other than the *Ex-Officio* member, shall hold office for a term of three years, after which they shall be eligible for reappointment for a further term of three years."

There is no provision for the staggering, which the hon. Member is talking about. The Act also provides for removal, or termination of these appointments, if they are unable to perform their functions, insolvent and fail to

comply with the provision of paragraph five of this schedule. That includes financial impropriety, to which there is sufficient evidence. That is what prompted the Government to act.

Mr. Maore: Mr. Deputy Speaker, Sir, the Minister needs to clarify what he means when he says that the incoming Board members stuck to the same habit of the previous Board Members. For those who know Mr. Mitine, when the Minister says that he had the habit of having his own interest for financial gain, it is totally unacceptable. If the Minister says that this Chairman had business where he was to award himself or his friends tenders, then we can say that, otherwise, we need to protect characters that have taken many years to build.

The Minister for Energy (Mr. Raila): Mr. Deputy Speaker, Sir, in fact, Mr. Mitine is my friend. That is why I was really hesitant to go into all these details. When Mr. Mitine was appointed, he inherited a situation, which he was advised was incorrect; that he did not need to continue with the *status quo*. He needed to improve it, but he did not improve it for the period that he was there. I have got details here to show the amount of money he was paid. In the month of May, he was paid Kshs339,000---

Mr. Deputy Speaker: Order! Have the accounts you are referring to been audited?

The Minister for Energy (Mr. Raila): No, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: I do not think it is appropriate to---

The Minister for Energy (Mr. Raila): Mr. Deputy Speaker, Sir, I am not going to expose---

Ms. Karua: What about the Board Secretary?

The Minister for Energy (Mr. Raila): Mr. Deputy Speaker, Sir, the previous Board Secretary was sacked by the Board for professional incompetence. Of course, as somebody who was sacked, she sought assistance to be reinstated, but the Board resisted. I am satisfied that she was correctly relieved of her duties. I am not trying to defend her.

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

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

Mr. Deputy Speaker: Order! Statements made after Question Time should be restricted to a few issues of clarification, and we have given enough time.

ROLE OF FOREIGN OFFICE ON NATIONAL DAYS

The Minister for Foreign Affairs and International Co-operation (Mr. Obure): Thank you, Mr. Deputy Speaker, Sir. I beg to respond to the point of order raised by Mr. Munyao on 5th July, 2001 regarding the role of the Head of State and the Minister for Foreign Affairs and International Co-operation at celebrations to mark other countries national days.

Contrary to the impression created by the hon. Member, there is no protocol breached when the Head of State attends another country's national day celebrations. When a foreign mission celebrates its national days here in Nairobi, it sends out invitations to the heads of missions accredited to Kenya, Government officials and other dignitaries and guests. This is a normal practice in the diplomatic world. As an invited guest, the Head of State has the discretion to grace the occasion with his presence, as in the instance quoted by Mr. Munyao, when the President attended the American National Day celebration.

I would also like to point out that, attending other countries national days is an important aspect in the conduct of foreign affairs. In addition to attending national day celebrations, governments usually send messages of goodwill as a form of renewing friendship. These messages are sent in the name of the Head of State, and this is the normal practice worldwide. In every country, foreign policy is the prerogative of the Head of State. He is the chief initiator, the chief articulator and the director of his country's foreign policy. This is also the position in Kenya. The Head of State can choose any forum or platform at which to articulate his country's foreign policy. The forum can be an international conference, a foreign territory or an ambassador's residence. He may choose to be represented by his Foreign Affairs and International Co-operation Minister, who is his Principal Assistant in foreign affairs, or he may choose to be represented in person. It is his prerogative to do that. In his absence, or in addition to his presence, the Minister for Foreign Affairs and International Co-operation or any other Minister would be present--- This is in conformity with international practice.

Thank you, Mr. Deputy Speaker, Sir.

Mr. Munyao: Mr. Deputy Speaker, Sir, first, it is regrettable that the Minister has issued such a Statement in this House. The Ministerial Statement was sought about three weeks ago, and it was about a policy, which should not take long to formulate. This Ministerial Statement was about protocol of countries. I am conversant with foreign affairs issues, because I have served in the Ministry of Foreign Affairs and International Co-operation not as an appointee--- I would like to state that Kenya is a country like any other. The Head of State

appoints ambassadors and Ministers. My concern is about international protocols. What I meant, and if the Minister had checked, is that when the Head of State, first attended the Queen's birthday and a national day in the United States of America, the Minister for Foreign Affairs and International Co-operation and the Vice-President and Minister for Home Affairs Heritage and Sports who are appointed by the Head of State, accompanied him. Therefore, the entire Government attended that function. What role does the Minister for Foreign Affairs and International Co-operation play? I have served in so many embassies and I have never heard Mr. Clinton, Mr. Bush or even the Queen attending Moi's birthday in some of these international fora. This time round, he attended the Queen's birthday. Which other birthday will he attend? Is it not possible for the Head of State to send the Minister for Foreign Affairs and International Co-operation to represent him? We have got the Geneva Convention which outlines all these issues. It is important for the Minister for Foreign Affairs and International Co-operation, who is an expert in this area, to interpret these things. We would like him to play his role as the Minister for Foreign Affairs and International Co-operations.

The Minister for Foreign Affairs and International Co-operation (Mr. Obure): Mr. Deputy Speaker, Sir, as I said, His Excellency the President has not breached any protocol. It is within his prerogative to accept these invitations when they come. As I said, he occasionally chooses the forum in which to articulate foreign policy of which he is the principal initiator.

Mr. Angwenyi: On a point of order, Mr. Deputy Speaker, Sir. I want to inform Mr. Munyao that Mzee Moi does not know when he was born. So, they cannot be celebrating---

(Laughter)

Mr. Deputy Speaker: Order! Order! Mr. Angwenyi, one more frivolous point of order and you will pay the price!

Dr. Kituyi: Mr. Deputy Speaker, Sir, any person who has followed the history of diplomacy, from the Treaty of Westphalia, which is the birth of modern day diplomacy, to the present times, the only time a Head of State goes on the occasion of a national day is if he is invited by the Head of State of the country celebrating a national day. President Moi can celebrate the Day of Bastille in France and not at the ambassador's residence in Kenya. The only time a president goes into an ambassador's residence is when he is seeking refuge. It has been embarrassing for those of us who have been going to these functions to find that there is a printed programme showing a statement by the Minister for Foreign Affairs and International Co-operation of Kenya. This means that it is just good courtesy and etiquette that they pretend to invite the Head of State but they expect him to be represented by the Minister for Foreign Affairs and International Co-operation. Instead of the Minister standing up to speak on behalf of Kenya, the President is there to speak for himself. There is no such protocol. There has never, ever been a foreign Head of State who has visited a Kenyan Mission abroad on Kenya's national day. Why is our President trying to breach etiquette by pretending that he has to go to the American Ambassador's residence to talk about our foreign policy when he can do that from State House? It is embarrassing to Kenyans.

The Minister for Foreign Affairs and International Co-operation (Mr. Obure): Mr. Deputy Speaker, Sir, I feel that the hon. Member is not familiar with international protocols in this respect. If the President decides to attend an ambassador's residence here for purposes of celebrating that country's national day, there is absolutely nothing wrong. In fact, the embassy of that country in this country is an extension of that country's territory located in Kenya.

Mr. Munyao: Mr. Deputy Speaker, Sir, I said that I am speaking from experience. The Minister, who is a very good friend of mine, has got no experience in foreign affairs at all. I have served in the Foreign Service in very many countries and I have never ever, and I am sure the Minister has never also, heard of a Head of State attending such functions. We are worried about the protocols. Could the Minister play his role and advise the President properly? He is getting the wrong advice.

The Minister for Foreign Affairs and International Co-operation (Mr. Obure): Mr. Deputy Speaker, Sir, I have had vast experience in international affairs. Mr. Munyao, who is my friend, has served in a very junior capacity in foreign affairs. I can tell him, with authority, that the President has done absolutely nothing wrong in this particular case. He uses the forums on these occasions to cement relations between Kenya and our friends abroad.

Mr. Wamalwa: Mr. Deputy Speaker, Sir, the new Minister for Foreign Affairs and International Co-operation, who is a good friend of mine, claims he has vast experience in these matters; a statement whose efficacy I doubt but I will not challenge that now. But allow me to make a few observations. In international law, all sovereign states are assumed to be equal. The Head of the smallest and humblest state in this world is equal in

international law to the Head of the most powerful state in the world. Therefore, you will not find, as a matter of practice, that the Queen of England will go anywhere to attend a function at the French Ambassador's residence or wherever. The American President will not attend a function at the French Ambassador's residence or wherever. It will be the Minister of State or even the Secretary of State for that region, who will be the equivalent of an assistant minister. These countries may be our friends and we may be trying to lure them to support us and so forth. But I think we are going too far. What is happening in these visits to various embassies is tantamount to Kenya's President crawling on his belly to please countries that we hope to do business with. I think the integrity of Kenya, as an independent state, must be maintained. It does not matter how poor we are. We may be poor but we are rather proud of it. Our sovereignty is not any lesser because we seek help from these other countries.

(Applause)

The Minister for Foreign Affairs and International Co-operation (Mr. Obure): Mr. Deputy Speaker, Sir, I agree with the sentiments by Mr. Wamalwa in this particular case, whom I respect very much. But I want to say that it is our policy to treat foreign embassies placed in Nairobi on an equal basis. The President may not be available to attend all national days. But if he chooses to attend any of these, he does not do so because he perceives one country to be more superior to the others. I take a little exception to the point he raised; that the President crawled there on his belly to beg for mercy. That is not correct. He has gone there out of courtesy, to cement relations and he will continue to do so when he has the time to do so. We must also bear in mind that foreign embassies and ambassadors posted to Nairobi are here representing their respective Heads of States. We must give recognition and respect to these ambassadors because they represent their Heads of States.

POINTS OF ORDER

IMPORTATION OF ZERO-RATED OIL FROM SUDAN

Dr. Ochuodho: Mr. Deputy Speaker, Sir, I rise to seek a Ministerial Statement from the Minister for Foreign Affairs and International Co-operation with regard to importation of zero-rated oil from the Sudan. The Minister may seek to consult with his colleague in charge of Trade and Industry, and also his other colleague in charge of Energy. In view of a recent Government declared intention to import zero-rated oil from the Sudan, under the COMESA Agreement, and the central role being played by the Kenyan Government in the IGAD framework, I seek a Statement on the following:-

- (i) Whether or not, the Minister does not believe such a move will jeopardise our neutrality in attempts to solve the Sudan conflict;
- (ii) How much oil has so far been imported into the country under this arrangement;
- (iii) A list of companies involved in the importation; and,
- (iv) Whether or not, a study has been conducted on how the importation is likely to affect the local petroleum industry.

Mr. Deputy Speaker: Thank you.

DOUBLE STANDARDS IN APPLICATION OF THE LAW

Ms. Karua: Mr. Deputy Speaker, Sir, sometime before we went on the recent short recess, I sought a Ministerial Statement from the Attorney-General on the practice of double standards in the application of our laws whereby Members of the Opposition are charged for their legitimate political activities and where we are seeing Members of the Government getting away with things that are clearly wrong. I have not had a response to that request for a Ministerial Statement. The Attorney-General did attempt to enter into correspondence over the matter but I believe the right forum for the answer is this House. I am seeking a ruling on when the Attorney-General may be compelled by the Chair to issue a Ministerial Statement on the matter.

Mr. Deputy Speaker: Ms. Karua is quite right that she did raise this question of double standards with regard to prosecution of alleged offenders. The Attorney-General responded by way of a letter to the Speaker. He kindly copied the letter to Ms. Karua and myself. I have not consulted sufficiently with the Speaker on this issue. But I would like to state, for the record, that when a Member raises an issue in this House, the way to respond to it is not by correspondence. Whatever you want to state, you must come and state it here. But I will consult with the Speaker on this matter so that a ruling that is binding can be made.

STATUS OF DISTRICT ROADS COMMITTEES

Mr. Murungi: On a point of order, Mr. Deputy Speaker, Sir. I rise to seek a Ministerial Statement on the current status of the District Roads Committees (DRCs). A lot of confusion has been caused by the judgement of the High Court that was delivered by Justice Mulwa in March, 2001, in which he declared Section 17 of the Kenya Roads Board Act unconstitutional and inconsistent with the doctrine of separation of powers in so far as it gives Members of Parliament sitting in DRCs executive functions. I have read that judgement, and seen that the High Court did not abolish the DRCs. The High Court merely declared that Members of Parliament cannot sit on DRCs in any executive capacity and exercise executive powers. In view of this, I would like to seek a Ministerial Statement from the Minister, who should clarify whether the DRCs are still operational; whether they still hold the primary responsibility for determining road maintenance priority within their respective areas of operation, and whether Members of Parliament continue to be members of the DRCs so long as they do not exercise any executive functions in those committees. Lastly, I would like the Minister to table in this House a document showing the amount of money sent to each DRC in this financial year.

The Assistant Minister for Roads and Public Works (Eng. Rotich): Mr. Deputy Speaker, Sir, we will issue the Ministerial Statement sought next week.

Mr. Deputy Speaker: On which day of next week?

The Assistant Minister for Roads and Public Works (Eng. Rotich): Maybe, on Thursday, Mr. Deputy Speaker, Sir.

DISRUPTION OF SABA SABA RALLY BY POLICE

Dr. Kituyi: On a point of order, Mr. Deputy Speaker, Sir. On the 11th day of this month, I stood before this House and sought a Ministerial Statement from the Minister of State, Office of the President, about the events regarding the recent *Saba Saba* rally. I had asked the Minister to clarify before this House four things: He should explain why a Minister of State issued a statement on 6th July, 2001, that there would be no interruption of the *Saba Saba* rally the following day, and in spite of that statement, the following day, police came out and violently arrested and beat up public leaders, who included Members of this House, why all police officers on that day were on duty without uniforms, why Mr. Pheroze Nowrojee was accosted and physically abused by police officers when he, visited a police station to offer services to one of his clients, and why Mr. Philemon Abong'o added insult to injury by purporting to justify why the police can arrest people if they fear that a rally held by those people can be followed by looting by people attending it. Up to now, I have not seen any action by the relevant Minister to answer to these concerns.

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

An hon. Member: Ametoroka! Alikuwa hapa!

Mr. Deputy Speaker: Could the Deputy Leader of Government Business convey that request to the Minister of State, Office of the President?

The Minister for Transport and Communications (Mr. Mudavadi): Mr. Deputy Speaker, Sir, I wish to apologise that there is nobody from the Office of the President here. I will convey that request so that they can respond to it.

Mr. Deputy Speaker: Thank you very much.

Next Order!

MOTION

LAND DISTRIBUTION TO LANDLESS PEOPLE

Mr. Kihoro: Mr. Deputy Speaker, Sir, I beg to move the following Motion:-

THAT, being aware that the Government had done census for houses and people in Kenya in 1989 and 1999; acknowledging that thousands of Kenyan families are unemployed, poor and landless; this House urges the Government:

- (a) to declare how many Kenyan adults and/or families are landless in all areas where land has been adjudicated and demarcated and prepare a list of such on location by location basis;
- (b) reserve all the remaining Agricultural Development Corporation (ADC) farms, net of

research land, for sub-division and distribution among landless people; and,

(c) earmark all Nyayo Tea Zone lands, when the divestiture programme is implemented, for distribution to the landless or for re-afforestation.

Mr. Deputy Speaker, Sir, I have brought this Motion here because, in 1989 and 1999, the Government spent a lot of money to carry out censuses. The objective of the censuses has been to enable this country to develop. In 1989, the Government spent Kshs4 billion counting Kenyans and came up with a population figure of 21.4 million. In 1999, the Government, aided by donors, spent a similar amount to count people and houses in the country.

[Mr. Deputy Speaker left the Chair]

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

Mr. Temporary Deputy Speaker, Sir, having carried out a census of houses during the two exercises, the Government knows how many Kenyans are without houses and how many are landless. It is important that the information obtained from those two censuses is used for the purposes stated by the Government. The Government has a list of the number of landless and houseless people in this country. That list can be broken down into location by location lists to enable the Government to focus more clearly on the issue of development throughout the country. So, it is important that money spent on census does not go to waste. It should be used to empower our people who, in recent times, have become more dependent on relief food supplies. That is the emerging scenario.

I remember that in 1965, when some relief food was imported into this country, the Government was very embarrassed. It has now become routine for this country to import relief food. In last year's Budget, the Vote of the Office of the President was provided with Kshs1.5 billion for the purchase of relief maize. We now want to stop this culture of importing relief supplies into this country. We have the resources that can empower our people. Our people should be put on land, which is available in this country, and they will know how to "fish". We do not want other people to "fish" for them. We want the people to be given the means to enable them lead a decent life.

In respect of part (a) of the Motion, I am focusing on areas where land has been demarcated because that will enable us know the landless people in those areas; we will know who has land and who has no land. In some areas of this country, land was demarcated between 1956 and 1960. In some parts of the country land was demarcated then but most of the people, have been born after 1960, have come of age and are landless today. It is, therefore, important for this Government, which should show full goodwill for this Motion, to look at what has happened in the light of the census figures of 1989 and 1999 and then address this issue in a serious way, in order to put to an end a situation where people are permanently depending on relief supplies. That is what we want to stop through this Motion!

Mr. Temporary Deputy Speaker, Sir, in respect of part "b" of the Motion, I will focus on land which is currently held by the Agricultural Development Corporation (ADC). I must say that I have spoken to Mr. Gatabaki, who will be seconding this Motion and he will be covering the land which is currently held by the ADC, which is a lot of land. What has been happening, in respect of ADC farms, is that the Government has surrendered control to some of the people who were managing these farms. It has lost control, but when I look at the annual reports that have been made by the Auditor-General (Corporations), I find that every time and every year, they are returning negative accounts to the Public Investments Committee. In respect of all the ADC farms, there is an existing amount of Kshs1.5 billions in terms of loans owed to the African Development Bank. That is a hefty amount to be paid through agricultural activities. More recently, we read in the Press that a farm comprising 4,000 acres, Ngatongo Farm, is being auctioned. This will spread infection among ADC farms, which will find it more and more difficult to meet their financial obligations. That will lead to a lot of these farms, which are more than 20, coming under the hammer. That is what we want to stop. These farms will then be bought by people who have no interest in agriculture. The buyers will hold on to the land for status and that will make the people of this nation more and more hungry. At this time, we want to stem this process, whereby more and more agricultural farms are now ending up in the hands of people who have got land already and that does not help this country.

Mr. Temporary Deputy Speaker, Sir, the colonial regime brought about 4,000 settlers into this country who specialised in agriculture. These settlers lived on agriculture and, during that period, this country never imported food. If we can have some of these local powerful gentry making agriculture a full-time occupation, it would be beneficial to this country. But you cannot farm from the Front Bench here! You have no time for it! From that Front Bench, you find very many people holding on to land which they do not have time to farm. So, we

want to make sure that people who are in agriculture do that as a full time occupation and that is the time when we will stop this country, sliding into hunger and starvation. That is when we will empower our people and take all that land, and especially the ADC farms which are not owned by individuals on that side. I have got a list and I do not think I can read it out. I do not want to agitate them to oppose this Motion, I will just table a list of the people from the Government side of the House who have taken ADC farms. The list reads like: "Who-is-who in the Government." These are people who have taken over ADC farms and even promised that they were going to buy that land, but they have not paid even a penny for the land yet they continue sitting on it. That is the whole list of the people in KANU and in the Government, who have taken ADC farms for free.

(Mr. Kihoro laid the list on the Table)

Mr. Temporary Deputy Speaker, Sir, some of the ADC farms have already been sold. For example, there was one ADC Farm called Ndabibi, comprising of 17,085 acres which was sold for Kshs375 million.

Mr. Too: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the hon. Member, whom I respect a lot, to mislead this House that ADC farms were given out free? There is no provision in our laws which disallows the Government of Kenya to allocate ADC farms to landless citizens of this country. When the Europeans left, a company known as Lands Limited was formed. People like hon. Michuki were in Treasury then and they should know about that!

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

Mr. Too: There is no provision in our laws which disallows what he is saying. Everybody is allowed to acquire land legally like any other Kenyans.

The Temporary Deputy Speaker (Mr. Muturi): Order! Order! Mr. Too, you can explain that when you get an opportunity to contribute.

Mr. Kihoro: Mr. Temporary Deputy Speaker, Sir, I am still referring to the ADC farm at Ndabibi, which has been sold and some of the people who were owners of that land---

An hon. Member: Toboa!

(Mr. Too stood up in his place)

Mr. Kihoro: Mr. Mark Too, you are on that list! The ADC Farm, known as Kiswani which occupies an area of 881 acres and, was supposed to be sold for Kshs19 million. According to the official list, the amount paid was only Kshs13 million and the outstanding amount is Kshs5.8 million. This is tantamount to giving out this land free of charge. There is also an ADC farm at Kimwani. The area is unknown according to that unofficial list. The sale value was Kshs95 million and the amount paid up to that time was Kshs76 million while the outstanding amount is Kshs19 million. The ADC Ngata Farm comprised of 5,109 acres. The sale value was Kshs22 million and the amount paid up to day is Kshs4.8 million, while the outstanding amount is Kshs18 million. The KANU supporters are getting the land free!

Mr. Ochilo-Ayacko: On a point of order, Mr. Temporary Deputy Speaker, Sir, I do not want to interrupt my learned colleague, Mr. Kihoro, but the document he seems to be reading from appears to be similar to a document that was presented to the Public Investments Committee. The Report is not ready and has not been tabled. I want to get guidance from the Chair on this. There is nothing to conceal. I know the PIC has deliberated at length with regard to the content of that document and very soon a Report will be tabled before this House for debate.

An hon. Member: He is pre-empting the debate!

Mr. Kihoro: Mr. Temporary Deputy Speaker, Sir, let me say that PIC is not a fountain of knowledge; that it is the only body that can have a report. I did ask a question sometime last year and the document that I have tabled was part of the answer I was given by the hon. Sumbeiywo on 7th November, 2000. The papers were tabled by Mr. Sumbeiywo, they were part of the answer that was given to me and they have absolutely nothing to do with PIC Report which I do not know about. They must be running scared and that is why they do not want me to continue with the debate.

Mr. Temporary Deputy Speaker, Sir, let us talk about the sale of the ADC farms. There was an ADC farm comprising of 2,490 acres - LR No.7581/1/2 - which was sold for Ksh286,000. A single acre in respect of this farm was sold at Kshs120. Why are these things being done haphazardly?

The Minister of State, Office of the President (Mr. ole Sunkuli): On a point of order, Mr. Temporary Deputy Speaker, Sir. I am sorry because I know that the hon. Member is talking about the prices of parcels of land.

I do not know whether he had discussed it because I want to answer him. I wanted to know from him what he said as the real value of land No.7 sold to Mr. Nyachae and Mr. Kones. Maybe, he could tell me the real value.

Mr. Kihoro: Mr. Temporary Deputy Speaker, Sir, look at the quality. I find that there is none. I was speaking in respect of a farm measuring 2,490 hectares, and it was sold for Kshs286,000. It was sold at Kshs120 per acre. Every poor and landless person can be able to raise Kshs120 and get an acre of land. How come that the farms can only be sold to the gentlemen sitting on the Front Bench and not to ordinary Kenyans? Regarding Waterfall Farm, it was sold to the former CID Director; 785 acres for Kshs96,000. Again, Kshs120 per acre. Baraka Farm, measuring 1,040 acres, was sold for Kshs13,000; one acre was being sold for Kshs10.

In this Motion, I am proposing that the ADC farms should be given to the poor people in this country, wherever they are. Let us allocate them location by location, to people who are landless. The Front Bench cannot be able to farm all the land in this country. In respect of part (c) of the Motion, which is about Nyayo Tea Zones; we have them in 15 districts in this country, this Parliament votes Kshs25 million every year to support Nyayo Tea Zones. The stated purpose, when they were being founded in 1984, was to protect the forests. How do you have a tree protecting a tree? That has intrigued me for a long time. How do you plant a tea bush to be able to protect a forest? Nonetheless, that was the stated purpose. Every year, the Government pays Kshs25 million to support Nyayo Tea Zones. Every year, the farms are returning a negative balance sheet to the Government. The zones must be somebody's estate. They measure 3,500 hectares across 15 districts.

Again, I would like to say that, part of that land should not be farmed. It should be reserved for reafforestation. This Government has destroyed all our forests. What can continue to be farmed should be farmed and be given again to the landless people who are depending on relief supplies. Eventually, they may vote for KANU because they are given some land.

Regarding some of the parcels of land that belong to the Nyayo Tea Zones, over 350 hectares have already been sold to a co-operative society in Kericho. The land was sold to well-connected people, such that the Nyayo Tea Zones Board was only able to pass the minutes permitting the sale, after the sale had been transacted. In respect of that sale of the 372 hectares, the buyers only paid Kshs35 million. But, indeed, that was land that was valued by the Ministry of Lands and Settlement, and it had been valued at Kshs66 million. Because there is a very big debt owed by Nyayo Tea Zones the debt proportion of the estate that is being left is being increased by removing some of that land from meeting its own debt obligations. It is important that the Government makes up its mind on the ADC farms and Nyayo Tea Zones. The land should be given to the landless in this country. Even if that is not done, we have got a list here. This is because land is a permanent asset, and time will come when the people of this country will repossess those parcels of land.

I beg to move and request Mr. Gatabaki to second the Motion.

Mr. Gatabaki: Mr. Temporary Deputy Speaker, Sir, our forefathers had a vision. The Government of Mzee Jomo Kenyatta had a vision in establishing the ADC farms. The vision was to have Kenya that is self-sufficient in food production, and I wish my colleagues on the Front Bench would listen to me. This is because I am talking about a Government with vision and a Government without vision. I want to state that President Moi was bequeathed with a vision by Mzee Kenyatta, which was to build a self-sustaining nation and to become a newly-industrialised country. For almost 15 years, this nation grew at 7 per cent and there was a time we were talking about the year 2000; provision of water to all households, education for all Kenyans, food to every Kenyan and food grown by Kenyans, and exportation of food from Kenya.

We almost achieved that. The Kenya Meat Commission was exporting meat and meat products throughout the world. Uplands Bacon Factory was exporting pig products to Middle East countries. Nyanza region, where NDP comes from, was exporting sugar to the European Union. Those were the days of vision. We were a nation that was able to feed itself and we did it. The ADC farms were taken over and bought from the European farmers for specific reasons; research and development. Our major vision was to have a prosperous dairy farming and seed production. There was a Government that cared about the people. President Moi was the Vice-President under the Kenyatta Government for over ten years.

Mr. P.K. Mwangi: Mr. Temporary Deputy Speaker, Sir, though I respect the Member for Githunguri, I think he has misled this House. We know that Middle East countries are Arab countries and they do not eat pork. He said that Kenya was exporting bacon and other pig products to Middle East countries. Is that true?

Mr. Gatabaki: Mr. Temporary Deputy Speaker, Sir, unfortunately, some of us went to approved schools and, they do not have the ability to understand basic economics. Unfortunately, my friend falls in that category. However, I will ignore that point of order. I was talking about a nation that cares about the survival of its people. I am talking about one individual whom I respect and that is His Excellency, President Daniel arap Moi who succeeded the founding father of this nation.

Mr. Kibicho: On a point of order, Mr. Temporary Deputy Speaker, Sir. Mr. Gatabaki is definitely my good friend, but is it in order - for the sake of records in this House - for him to continue saying that Mr. P.K. Mwangi was in an approved school when he knows that he has never been there and is not a criminal?

Mr. Gatabaki: Mr. Temporary Deputy Speaker, Sir, the issues are so profound that we should not dwell on trivialities. We are talking about a nation that is importing virtually everything today. This morning we talked about importation of sugar---

Mr. P.K. Mwangi: On a point of order, Mr. Temporary Deputy Speaker, Sir. Although I find Mr. Gatabaki to be an eloquent speaker, he should apologise to me. I have never been in an approved school. This House is honourable and Mr. Gatabaki---

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

Mr. P.K. Mwangi: My point of order is this: Should Mr. Gatabaki be allowed to continue speaking without substantiating those remarks he made and at the same time apologising and withdrawing those remarks?

The Temporary Deputy Speaker (Mr. Muturi): We have not been given any particular definition of the word "approved" as to appear to be derogatory. Proceed please!

Mr. Gatabaki: Mr. Temporary Deputy Speaker, Sir, the issue of whether he went to an approved school---

Mr. P.K. Mwangi: On a point of order, Mr. Temporary Deputy Speaker, Sir. In Kenya today what we know is that approved schools cater for criminal children and I do not have any criminal record. Do you know of Wamumu Approved School in Mwea? I have never been to such a school. There is also Othaya Approved School and I have never been there. He should apologise to me!

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

Mr. P.K. Mwangi: My point of order is that he insinuated that I was a criminal and he should apologise for that remark.

The Temporary Deputy Speaker (Mr. Muturi): The Chair did not take it that way. So, he can proceed.

Mr. Gatabaki: Mr. Temporary Deputy Speaker, Sir, the issue I am trying to hammer and the main focus of this Motion which the Government brought here is the inability of our country to be self-sufficient in food production. It may be for the purpose of using food relief. There is one Minister who specialises in giving food to Kenyans so as to politicise the issue of distributing food relief and this makes this country incapable of food production. The ADC farms were particularly started with the purpose of making our country self-sufficient in food production and crop husbandry. The Motion is seeking to safeguard whatever land is remaining which has not been given out. Luckily, there was some development because some Opposition MPs raised the issue about the extent to which greed and corruption has gone in this Government. A considerable amount of land is still remaining. The Motion is bringing into focus the fact that this nation dares not give out whatever land is remaining because it has its purpose.

I want to use this occasion to censure this Government, particularly what President Moi has done. In allowing the ADC farms which had a purpose to be given to individuals for political purposes, we have reduced this country to a beggar that it was not. We have reduced a country which was a net exporter of food into a net importer of food. I am talking about the realities. This morning we were talking about the importation of sugar from South Africa while most National Development Party zones have been reduced to poverty. I wonder what the merger is all about because it is not about empowering the farmer. Giving people economic empowerment is all about governance. A nation which cannot ensure that its people are empowered has no business governing.

Whatever reason President Moi had for establishing the Nyayo Tea Zones is now questionable. This Motion is questioning the wisdom of establishing the Nyayo Tea Zones because the reason was not to produce tea, but to ensure that both the forest cover and water catchment areas in 15 districts of Central Kenya are destroyed. This Government had ulterior motives, to ensure that the most productive region in this country is reduced into wasteland. The Nyayo Tea Zones were established with a political purpose which has brought devastation to our country. Afforestation has now become deforestation. We are asking for a reversal of that policy which has not worked. The question being asked particularly in part "a" is: How many landless adult Kenyans do we have in our country? This Government requires the census figures for planning purposes. How many people in rural Kenya are landless? How do they survive? What kind of income do they survive on? The entire programme on poverty reduction should be based on this kind of statistics. I am not here to educate this Government. It should be highlighting these figures.

With those few remarks, I wish to second this very important Motion.

(Question proposed)

The Minister for Lands and Settlement (Mr. J. Nyagah): Mr. Temporary Deputy Speaker, Sir, I stand to oppose this Motion. I am not the official Government Responder. That will be done by the Office of the President. Since there is a section that relates to the Ministry of Lands and Settlement, I wish to make my comments right from the beginning; that I do hope we will be able to succeed in opposing this Motion.

I have listened to both my two friends speak and if they are arguing about agricultural production, then the Motion is misplaced. They could have brought here another Motion that would have better coverage of the interests that they have. If their interests lie in agricultural production, there are many ways of ensuring that we do not depend on food relief in this country.

Mr. Deputy Speaker, Sir, not all Kenyans will in future be entitled to land. It is practically not possible for us to guarantee that in future it will be possible for us to give land to everybody. When Kenya's population was 6 million people at Independence and there was plenty of land, when the whites were about to leave Kenya, it was possible for us to guarantee that as many people as was practical would be given land. Indeed, the Government created the Ministry of Lands and Settlement and, for a long time, the single most important engagement of the Ministry was settlement, especially during the first 15 years of Independence. We settled hundreds of thousands of Kenyans in those shambas. So, the problem we have is that if we start counting people on location-by-location basis, of what value will it be, given that there is a limited amount of land out there of the kind we are talking about, namely, the Agricultural Development Corporation (ADC) and the Nyayo Tea Zones lands? Even if we went into a huge exercise of counting and making a list of all landless people in each location, this would not be useful. First of all, that list changes everyday. Even for the very short time I have been in the Ministry, the list of the so-called landless people has grown by hundreds of thousands of people. Everyday people are turning over 18 years and all are claiming they need land. Girls are giving birth at home and others are being left by their husbands, and all want to be given land.

Mr. Deputy Speaker, Sir, I want to state clearly that, in my view, it will not make sense to waste time and resources on keeping statistics on a location-by-location basis in order to solve the problem of the so-called landless people.

Mr. Kihoro: On a point of order, Mr. Deputy Speaker, Sir. Censuses were conducted in 1989 and 1999. I am not proposing in the Motion that any money should be spent to identify the landless. They have already been identified in the census and there is no money that will be spent; only sorting out what the Minister has in his record will be undertaken.

The Minister for Lands and Settlement (Mr. Nyagah): Mr. Deputy Speaker, Sir, I had misunderstood him because normally, in the Ministry, I deal with names. I give land to individuals and not to statistics. A man who counts people at night does not come to tell me that in a certain location there are 10,000 people. That is where the confusion was, but I understand what Mr. Kihoro was trying to say.

As I understand it, one of the main reasons of retaining the ADC farms by the Government was that the mwananchi at Independence did not have the necessary resources to buy the shambas. So, the Government acquired those shambas and held them in trust for the mwananchi at a later stage. That was one category of farms. There was, of course, the category of land that was bought and sold on the spot.

Mr. Wamalwa: On a point of order, Mr. Deputy Speaker, Sir. Is the Minister in order to mislead the House by saying that the ADC farms were bought to be kept in trust for wananchi to be settled later? We know very well that the purpose of the ADC farms, which included an investment from the Commonwealth Development Corporation (CDC), was setting standards of farming, breeding of seeds and livestock to serve as an example to other farmers, but was not necessarily to hold land in trust for settlement later.

The Minister for Lands and Settlement (Mr. J. Nyagah): Mr. Temporary Deputy Speaker, Sir, we are in full agreement! He is just interrupting! I agree with him even for seed production! So, we have no disagreement on that particular point. In the category that I have described, of holding land in trust, not the category that the hon. Member has described, the Government has done an excellent job. It has, over the years, allocated land to hundreds of thousands of Kenyans. It has allocated land to many big people and many small people! In fact, the small people in Kenya have benefited much more in terms of unit shambas!

Mr. Kathangu: Jambo la nidhamu, Bw. Naibu Spika wa Muda. Tungetaka kujua kama ni haki kumuita Mkenya yeyote "mdogo"! Tungetaka kujua wale "wadogo" ni akina nani!

The Minister for Lands and Settlement (Mr. J. Nyagah): Mr. Temporary Deputy Speaker, Sir, I apologise. I meant the ones that English refers to as "common" or "ordinary man", who does not have ability to use extra influence. That is the man I am talking about. Hundreds of them have been given farms. Even as I speak here now, we are still giving land to landless people. I think we must be careful when we have a small list

of a few people that the Member of Parliament has circulated; that it becomes a "bible". It is not correct.

Mr. Munyasia: On a point of order, Mr. Temporary Deputy Speaker, Sir. Although Mr. J. Nyagah is supposed to be talking in English, we do not appear to agree on terms. Could I be in order to ask him to define "common man?" Who is the Kenyan that we refer to as "common man", and who is the Kenyan that we refer to as the "big man?"

An hon. Member: Or uncommon!

The Minister for Lands and Settlement (Mr. J. Nyagah): Mr. Temporary Deputy Speaker, Sir, a "common man" is a man like him and a "big man" is like me!

(Laughter)

Mr. Temporary Deputy Speaker, Sir, there is another problem that we must be careful about, as we address the issue of land. When we talk of adjudication and demarcation - as Mr. Kihoro said - in Central Province in the 1950s, it was a very easy thing. We now have a peculiar Kenyan problem. The problem is that I am trying to give landless people land in different parts of Kenya. But Kenyans have become so tribal, that if I attempt to give people land in the wrong tribal areas, it will become a crisis. So, even with the statistics that I would be keeping, and I would want to give his constituents land in another area, it has become progressively very difficult. I have serious problems at the Coast where people were given land in the past, and the Coast people have become very difficult. In fact, they have threatened to beat me up next time I go to the Coast. They are stating that we dished out the land. So, we have a peculiar problem which cannot be solved by keeping statistics. The only land I have is in Kibwezi, North Eastern and the Coast. But those people have told me: "Should you attempt to bring other people, it will be a problem!" That is why I am busy settling the people in areas where they come from! I am busy giving land to people who come from those areas.

Mr. Wamalwa: Mr. Temporary Deputy Speaker, Sir, throughout his speech, the Minister has been degrading or denigrating the value of statistics, as if statistics are not useful. If the Minister does not value statistics, how will he know where he is going or coming from?

The Minister for Lands and Settlement (Mr. J. Nyagah): Mr. Temporary Deputy Speaker, Sir, I think he has misunderstood me. I do have the statistics and, in fact, my masters degree includes statistics, just to brag a bit!

With those few remarks, I wish to oppose the Motion strongly!

Mr. Khamasi: Mr. Temporary Deputy Speaker, Sir, thank you very much for giving me an opportunity to contribute to this very important Motion.

Mr. Temporary Deputy Speaker, Sir, from the outset, I would like to concur with my Chairman of FORD(K) that without data, it is very difficult to be able to know what you are going to do in future or what you have done in the past. So, it is very surprising to hear the Minister for Lands and Settlement bragging that statistics are of no use to his Ministry. I want to support this Motion very strongly. I would like to comment on the question of the Nyayo Tea Zones. The Nyayo Tea Zones, which were forest land, were cleared for the purpose so intended to protect forests. If that was the only intention, the purpose has not been served at all. If anything, it was just destruction of parts of the forests and these Nyayo Tea Zones have never helped to protect or create a buffer zone for the forests.

Mr Temporary Deputy Speaker, Sir, most of the Nyayo Tea Zones were either trust land or Government land and trust land belongs to the individuals of these areas in which those zones are. When these trust lands, which were originally forests, were being cleared, there was no authority of any nature which the Government actually wanted to get for the owners. All they did was just to go in, clear the forests and plant some bit of tea. So, it is very important that the Nyayo Tea Zones, which have been a very big waste in our forest coverage--- If the privatisation process becomes a reality, they should be given to the indigenous people of those areas. It is important for this Government to know that it will be the beginning of very serious social upheavals when these Nyayo Tea Zones are going to be given out privately as it has been done in some places. For example, in my area where we have quite large tracts of Nyayo Tea Zones, let this Government know that they will not come and give those zones for a song. It will be the beginning of social problems and it is very important that the Government knows that.

Mr. Temporary Deputy Speaker, Sir, I think the Mover of this Motion knew exactly what he was doing. The so-called ADC farms, most of them are actually in Rift Valley Province, Trans Nzoia District being one part where we have got these ADC farms. The way they are disposed of is mysterious. There is no advertisement or

common knowledge on how these farms are going to be given out and all you hear is that so-and-so has been given this land and he is settling his people and yet this is Government property. The price for which these farms go is mysterious since nobody knows. If you take statistics very clearly, these farms are given to politically-correct people. So, as much as we are saying we want to preserve the ADC farms, the rate at which they are going, we are just wasting our time here. It would be better if we are told how much these farms cost. Let the Government be serious and let us know how much it wants to retain and whatever is left, let it to be distributed to the actual landless.

Mr. Temporary Deputy Speaker, Sir, it is necessary to know who the landless are. There is no point talking about landless people when we do not know who they are. In fact, I was surprised that hon. Wanyiri Kihoro was chickening out when the Minister was saying that he tables names. We want to know how many landless people there are in this country even if it means by location. It is necessary so that we can be able to know that so-and-so is landless and is being provided for by the Government.

Mr. Temporary Deputy Speaker, Sir, the management of ADC farms is questionable. These are farms which are supposed to be---

Mr. Munyasia: On a point of order, Mr. Temporary Deputy Speaker, Sir. I am just seeking your guidance as to whether it is possible for a Member of this House to "chicken" out.

Mr. Kihoro: I am not complaining.

Mr. Munyasia: If you were not, then I was asking whether the word "chickening" is parliamentary.

Mr. Khamasi: Mr. Temporary Deputy Speaker, Sir, I do not have a dictionary for unparliamentary expressions. Mr. Kihoro is right there, he has not complained. So, I do not know what has made Mr. Munyasia rise up and begin questioning whether the statement is parliamentary or unparliamentary.

I was saying that the top management in the Agricultural Development Corporation (ADC) is questionable. These are farms which were intended to produce high quality seeds and livestock for Kenyans. We are not getting the best value for those farms. The low quality seeds which are produced there are being exported to our neighbouring countries. The same ADC goes ahead, buys commercial maize and packs them, as if they were quality seeds and begins to sell to the farmers. Therefore, of what value is the ADC? It is, therefore, important to get it right that we should not trivialise leadership in such important organisations.

The tribal clashes which occurred in this country made many Kenyans homeless and landless, and yet the Government has not addressed that matter seriously. This is because, as I speak here now, there are some people who have not gone back to their farms which they bought and still retain title deeds. I expected the Minister for Lands and Settlement, when he was contributing, to say that people who still own title deeds for the land or the farms which they bought and have been pushed out by the so-called tribal clashes should go to him so that he can make the necessary arrangement for them to go back to their farms.

It is ridiculous for us to have a Government which knows very well that people have been chased away from their own properties, and yet they say that peace is prevailing. They say this even when it is very clear that when those people go back to their farms, they are still told that they are foreigners and they are not wanted there. What has the Government done to ensure that the people who are still displaced, as we speak in this House, are given back their pieces of land? It is important that the Government addresses that matter very seriously so that the people who have been displaced can go back to their land which they purchased with their money.

I would like to end my contribution by saying that we cannot have the Nyayo Tea Zones Corporation as a parastatal which actually digs deep into the Exchequer in order to operate, when there is nothing it pays back to the Treasury. What is going on now is that some individuals have taken over some Nyayo Tea Zones and they harvest the tea which is grown on those zones and pocket the money. There is evidence to that effect. The people in charge of various blocks of the Nyayo Tea Zones basically harvest tea and put the money they get into their pockets.

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

Mr. Ochilo-Ayacko: Thank you very much, Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity to contribute to this very important Motion. I want to state, from the outset, that I am supporting this Motion. This Motion is addressing a very fundamental and crucial problem that would be defined or described as a powder keg waiting to explode in the face of future regimes.

Land is a very important commodity. In fact, those who understand production know that land is important to production. Without land, production can never take place. We know that landlessness is a prevalent problem among Kenyans and this means that there is a large section of Kenyans who are unable to produce because they do not have one factor of production called land. This Government has done very badly when it comes to solving the issue of landlessness. But I do not want to stop at the present Government alone. The way

landlessness has been dealt with by the Governments of Kenya is very bad. It used to be worse during the Kenyatta regime. I heard a speaker before me who said that the present regime is the one that has not solved the issue of landlessness. He also said that the Agricultural Development Corporation (ADC) was established by that regime to look after what it is supposed to look after and was well looked after.

Mr. Temporary Deputy Speaker, Sir, I have had occasion to look at the accounts of ADC, I do not propose to discuss them. I have also had occasion to look at a lot of things regarding ADC, including the names that are tabled here. I want to say that during the Kenyatta regime, more land was given out than has been given out presently. That is on record. This House will have occasion to debate it. We know that a wrong has been done against Kenyans; we know that the problem of landlessness was very acute during the Kenyatta regime. If the Mover of this Motion remembers very well, the other day he wanted a street to be named after Bildad Kaggia. One of the things that we know about Bildad Kaggia is that he is one of the people who never grabbed land in this country. He was at loggerheads with the Kenyatta regime for the manner in which landlessness was handled. So, it is not entirely correct to say that one regime was better than the other. But nevertheless, the manner in which landlessness has been tackled in this country leaves a lot to be desired.

Mr. Temporary Deputy Speaker, Sir, land is very crucial. If you look at all revolutions in the world, you will discover that the basis of all revolutions is land. You will find that all over the world people have been fighting for land. To save this country from a future revolution or crisis, the Government of the day must honour this Motion and take steps towards resolving the issue of landlessness without trying to pass the buck to Kenyatta regime or Moi regime. This is a fact that this Government must address and it must be addressed sooner than later. If it is not addressed, we are going to have people out there on the streets. We are going to have people who are not producing and they will be attacking people who are producing. We are going to have poverty in its broadest and unsolvable sense. I was quite disappointed when the Minister for Lands and Settlement stood here and said that the Government cannot guarantee that Kenyans will have land, when we know that there are people in this country who own as much as 20,000 acres. The Minister was saying that there are people who will be perennial trespassers. If you do not have land--- For instance, if that person came to Parliament today, he will be a trespasser. If that person went to some other land, he will be a trespasser. How can we have a law that somebody cannot escape offending?

One of the issues the Government should address is that of providing land to needy people. It was, in fact, quite disappointing to hear a Minister disregarding statistics. In the 21st Century, the Government must keep and respect its own statistics. So, the Mover of this Motion has done very well to bring to the attention of the Government the fact that the issue of landlessness is about to explode. In fact, the clashes along the Trans Mara/Gucha boarder have arisen because some people from one side of the border intend to encroach on to the other side to get some land. The clashes between my constituency and South Mugirango Constituency, and those in the Rift Valley are based on land. Despite all these facts, some of us here are opposing a Motion which proposes to settle Kenyans. It is, in fact, very sad. When that revolution visits us, we will be on record as a Parliament that opposed a Motion that intended to settle Kenyans.

Mr. Temporary Deputy Speaker, Sir, I had talked about the Agricultural Development Corporation (ADC). Earlier on, I mentioned to the Mover that the issue of the ADC came before the Public Investments Committee (PIC). Because our Report has not been tabled before this House, I will not disclose how the matter was deliberated on at the PIC. However, for general information of the House, both sides of the House have people who were given more land than they need, and that is very sad. I am speaking here as a person who, just recently, acquired land for himself by buying it. I was not given any land. So, I have an interest in this matter in so far as people who may not be fortunate enough to have money to buy land are settled. If they are not settled, we will not have done much to sort out this matter, which relates to poverty.

With those few remarks, I want to urge the Government to change its mind and support this Motion to the hilt.

Mr. Kiunjuri: Mr. Temporary Deputy Speaker, Sir, I rise in support of the Motion since it is very important, and affects Kenyans from all walks of life. The question of landlessness has been discussed in this House. The Government made promises, and has continued making promises. We are sure that even today the Government will give promises.

Mr. Temporary Deputy Speaker, Sir, talking of people who bear the burden of landlessness, I must say more than half of the town in my constituency is occupied by squatters. The township itself is more or less a village. The Government is responsible for the high number of squatters in this country. The Government has given itself the responsibility of impoverishing Kenyans, so that they cannot afford land. Even when squatters have an opportunity to own land, they are denied such opportunities. I remember that when Arobegeta Ranch was advertised for sale, some very influential people in the Government, including Cabinet Ministers, placed very high

bids thus emerging the highest bidders for the farm. The price was only Kshs5,000 per acre, but somebody wanted to buy the whole land parcel of over 40,000 acres.

Mr. Temporary Deputy Speaker, Sir, what happens is that, since some people have banks at their disposal, they take very huge loans, buy such land and re-sale it at Kshs50,000 per acre instead of the initial price of Kshs5,000 per acre. So, the common mwanachi will never have a chance of buying a piece of such land. Therefore, the Government should buy such land from anybody who wants to sell it. There are people who would like to dispose of thousands of acres of their land. The Government should buy the Arobegeta Ranch and sub-divide it as a Government settlement scheme.

The Temporary Deputy Speaker (Mr. Muturi): Order! Order! Mr. Kiunjuri, you have a balance of seven minutes. You will have them when debate on this Motion resumes.

MOTION FOR ADJOURNMENT

ADJOURNMENT OF THE HOUSE UNDER STANDING ORDER NO.18: CREATION OF DISTRICTS

The Minister for Information and Communications (Mr. Mudavadi): Mr. Temporary Deputy Speaker, Sir, in accordance with Standing Order No.18, I beg to move that the House do now adjourn.

The Temporary Deputy Speaker (Mr. Muturi): Mr. Michuki, I wish to announce that, due to the interest that this debate appears to elicit, each hon. Member will be limited to five minutes. Thank you.

Mr. Michuki: Thank you, Mr. Temporary Deputy Speaker, Sir, for granting me the permission to bring this matter under Standing Order No. 18. The reason that prompted me to bring this matter was after the Attorney-General spoke on it. He said that the Attorney-General was aware that some districts have not been prescribed by an Act of Parliament. He then went on to say: "We do things in accordance with the law, but where at times we have not strictly followed the law, we still have to come back to this Parliament to validate whatever has happened."

Those words are quite clear in terms of the original intention that this House is a rubber stamp. This House can be taken for granted, this House does what the Attorney-General said. This House does what the Government intends to do. The breach of the Constitution is contrary to the oath of office which the Attorney-General took and promised that he would defend, protect and--- If I may quote him, he said the following--- "Will preserve, protect and defend the Constitution of Kenya as by law established." He even went to ask God to help him to do so. Unless he can tell us that God has abandoned him and that He has not helped him, then we cannot understand why, for so many years, the Constitution should be breached.

Mr. Temporary Deputy Speaker, Sir, the breach of this Constitution implies other illegalities. The appointment of the District Commissioner Maragwa, or the OCPD or any other officer appointed in Maragwa District or for that matter, Mbeere District, is illegal. Therefore, all the activities that have taken place in that district are illegal, although many people have been arrested and imprisoned. They have been arrested by people masquerading as OCPDs and police officers of an imaginary district called Maragwa or Mbeere. Therefore, if you look at the Provinces and Districts Act, you will see that out of all the districts which this Government has created, only 46 districts are covered by law. The rest are illegal. Therefore, this Motion is meant to request the Government to comply with the Constitution, by first of all, declaring those districts non-existent and secondly, by taking measures to legalise their existence.

Mr. Temporary Deputy Speaker, Sir, when, for example, Murang'a District was being divided into two and one portion taken to an illegal district called Thika, we complained as elected Members of Parliament, including all our councillors. We went and wrote a letter to the Office of the President which was ignored. We even held a meeting with the then Head of the Civil Service. All our requests were ignored because the creation of Maragwa District was a reward to the former Member for Kigumo, Mr. Mwaura, who was supposed to deliver the district to the KANU Government. If you look at him, he has no involvement in Murang'a because his blood has got no lineage in Murang'a. He cannot be emotionally involved in Murang'a because he does not belong there!

If you look at some of the districts which have been created, they have been brought about by people whose blood has no feelings for the district, they cannot involve themselves in the affairs of those areas and, therefore, they cannot feel the weight that those who have been born and brought up in Murang'a can feel.

Similarly, I submit that it is the same thing in every other district. Therefore, my aim is to, first of all, find out from this House, whether we should be taken for granted by this Government in this matter. Secondly, whether in order to reward political ambitions, we should allow these districts to remain.

The Minister of State, Office of the President (Mr. ole Sunkuli): Mr. Temporary Deputy Speaker, Sir, I understand very much the bitterness that the hon. Member for Kangema has, with respect to the creation of districts, because he belongs to that group of Kenyans who were present when the original districts were created. Those districts were created in such a manner as to make sure that other people do not benefit from the fruits of Independence. This group continues to exist and is so incensed by the fact that the fruits of Independence are eventually reaching the citizens of this country. That is why Mr. Michuki is disappointed.

The other smaller reason is that---

Mr. Michuki: On a point of order, Mr. Temporary Deputy Speaker, Sir, I stated my case quite clearly. Is he in order to ignore the original Question which I had brought to this House; that section 123 of the Constitution has been breached? Is it because I come from Murang'a that the Constitution has been breached? Would he restrict himself to the Motion before the House?

The Minister of State, Office of the President (Mr. ole Sunkuli): Mr. Temporary Deputy Speaker, Sir, I would have restricted myself to that issue, if he had done so. This is because he said that the districts were created to reward some people. That is not a fact! The fact is that this country needed these newly-created districts. I know that there are some people who do not want their new districts and those people should say so. But those of us who come from new districts want them, and we do not want those who locked their doors to us to tell us that those districts are unconstitutional. Those districts are needed, and we ought to have them, and they exist legally.

Mr. Angwenyi: Mr. Temporary Deputy Speaker, Sir, is it in order for the Minister to say that those districts are not unconstitutional, when in fact, they have been formed unconstitutionally? Could the Attorney-General clarify that?

The Minister of State, Office of the President (Mr. ole Sunkuli): Mr. Temporary Deputy Speaker, Sir, some of the districts that were created after Independence were just too big. For instance, I come from Trans Mara and to reach Narok headquarters at that time, one had to go through Kericho, Nakuru, Kiambu and Maai Mahiu, to reach the district headquarters. The people of Trans Mara petitioned His Excellency the President who is the constitutional creator of offices and the person who ought to certify the sentiments of the people of this country. His Excellency the President did listen to those people and the district of Trans Mara was created. I wish these hon. Members would stand up here today and say that Trans Mara District is illegal. Maragwa District may be illegal because that is where the hon. Member comes from, but Trans Mara is not. I think that it is time---

Mr. Kihoro: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Minister in order to contradict the statements that have been made by the Attorney-General; that, the districts which have been created have been created illegally and unconstitutionally, contrary to section 123 of the Constitution?

The Minister of State, Office of the President (Mr. ole Sunkuli): Mr. Temporary Deputy Speaker, Sir, as the hon. Member knows, I am not the Attorney-General. The Attorney-General is here and I am sure he will elaborate that on the matter of the law. But the hon. Member has touched on the politics of the creation of districts. I think, let us all be fair to one another. Let us realise that those who created districts in the beginning forgot some very crucial areas, and it is now time to rectify those mistakes. Even if there was an oversight, I think the Attorney-General will bring that issue quickly here, and it is a very popular move which this House will be persuaded to agree with.

I beg to oppose.

Ms. Karua: Thank you, Mr. Temporary Deputy Speaker, Sir. It is most unfortunate that we can have a Member of the Government stand before this House and claim that the districts created without the force of law are not unconstitutional. The issue here is not whether the districts are necessary. That issue will arise when the debate about rationalising those districts comes up. The issue here is this: Just because it may be perceived that politically there is a need for this, is the Government entitled to take short-cuts? Is the Government entitled to operate in contravention of the law? The law of the land is there to be obeyed by all and the Government should be in the forefront in obeying it.

What was so difficult for the Government to ask the Attorney-General to table the necessary Motion or amendment before this House to help create the districts legitimately? The Government is now leading in breaching the law. Too often, the Attorney-General comes with Motions to this House belatedly. Only the other day, after being reminded by the hon. Member for Kangema, we had a Motion regularising salaries of constitutional office holders who had been drawing irregular salaries since 1997. All we are saying is that---

The Attorney-General (Mr. Wako): On a point of information, Mr. Temporary Deputy Speaker, Sir, I think it was since 1984.

Ms. Karua: That is slightly worse and thank you for the information. Can we start doing things correctly? Does this Government have the moral authority to tell law breakers in this country to obey the law if it

is in the forefront of disobeying the law? It is in the public domain. Some of the districts are not needed. They are politically-created and are not based on population or geographical consideration. Some districts have a single constituency while others have five. Let us debate those issues openly. If a mistake was made before, we have heard this too often and I am not aware of it. We cannot keep on saying: "Look at how bad the past people have been" to legitimise deliberate wrongs.

We heard Members of the Government insisting that they will continue disobeying the law. This Government has no business passing votes based on illegal districts. If the Government does not show that upon the mistakes being pointed out, they are ready to regularise, this Parliament is not helpless. We should refuse to pass any vote that is based on illegal districts. This is not the only area where the Government is disobeying the law. We have seen many other areas where even when we say: "Do not use the Provincial Administration for your campaigns", Members from the Government continue riding on the trousers of the Provincial Administration for their day-to-day politics. How can we expect to have an orderly society called a nation if we cannot follow the rules that govern it? Nobody is against fairness.

During the last Motion it was said that equitable distribution of resources will be the basis of peace in this country. We are, therefore, not worried about equitable distribution. Let it be done openly. Let us follow the law and let no Member of Parliament who call themselves honourable stand here and try to legitimise things that are unconstitutional. We should be busy trying to uphold the rule of law in this country and leading the way. There is no hindrance to bringing a proper Motion before this House so that the districts can be properly sanctioned.

With those few remarks, I beg to support.

Dr. Anangwe: Thank you, Mr. Temporary Deputy Speaker, Sir. Let me say, at the outset, that I oppose this Motion. I oppose it from the aspect of new districts. In so far as it relates to the failure by the Attorney-General to advise on the relevant constitutional procedures, I agree with that. But on the issue of the new districts, I disagree. I come from one of these new districts, Butere/Mumias District. We went to ask for the creation of this district from the Government. We applied for it. We took a delegation of nine constituents of the then larger Kakamega District and went all the way to Kabarak to ask for this district. We were very happy that the President consented to our request.

Mr. Wanjala: On a point of order, Mr. Temporary Deputy Speaker, Sir. You have clearly heard the former Minister say that he comes from Butere/Mumias District while the district is called Mumias/Butere.

Dr. Anangwe: Mr. Temporary Deputy Speaker, Sir, he is being frivolous. I would like to say, that in all the cases where the Government has established these districts, it has done so on demand except probably in the case of Maragwa District and one or two other cases. But in the majority of the cases, the President would be touring some of the concerned areas and the people would request him to give them a district. It would have been bad policy for the Government not to have established the new districts.

Mr. Angwenyi: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Chair in order to allow irrelevancies? We are talking about the legalities of those districts and not their justification. We are now being irrelevant.

The Temporary Deputy Speaker (Mr. Muturi): That is quite relevant to the Motion.

Dr. Anangwe: Mr. Temporary Deputy Speaker, Sir, there are two aspects to this Motion. One is about the Constitution and the other about the new districts. I am addressing the issue of the new districts.

I think that if there is any failure on the part of the Government to regularise the creation of these districts, and as Ms. Karua has said, there are precedents where actions have overtaken the law and it is the responsibility of the Government to regularise what happened. I would ask the Attorney-General to bring here a relevant Bill so that we can endorse it. Let us not oppose the Bill when it comes here. The point I am trying to put across is that it would be bad politics for the Government not to respond to requests from the countryside. After all, this is a political Government and a political Government has to be responsive. Those who do not want to be in a new district, it is up to the Government to respond to their requests and scrap those new districts.

I know some people have been saying that some districts are political and others are not. This is a frivolous and far-fetched criticism. Any decision to create a district is a political decision.

Mr. Kihoro: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the former Minister, who is on the Floor, in order to continue agitating the House on the question of frivolity of contributions? I thought every hon. Member has got an equal right to contribute, be it the former Minister or the Opposition hon. Members. He should be sacked again!

Dr. Anangwe: Mr. Temporary Deputy Speaker, Sir, I was addressing the notion of political districts, and all I am saying is that any decision to create an administrative unit, particularly in terms of partial distribution of political power, is a political decision. So, Butere/Mumias District is as political as Murang'a, Bungoma, Kilifi or

Mombasa Districts are. So, that particular issue of a district being political or not demonstrates lack of understanding of a very complex phenomenon.

The idea of bringing a District Commissioner or an administrative head to an administrative centre, establishes a contact point between the population of the area and the Central Government. It becomes the transmission centre of contact and communication between the people and the Central Government. It is also a way of the Central Government to transmit its communication from the centre to the population. So, that is a political interaction. It cannot be anything else, but political.

All I am trying to say is that this particular trend should continue. The Government should not be discouraged and I ask the Office of the President and the Government to ignore all these criticisms that sometimes are raised about the new districts. Creation of new districts should continue so long as the Government fulfils the constitutional requirement when that moment comes. May I also say that we need more districts, particularly in Bungoma District.

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, this is actually a much more serious issue than some of the contributors have suggested. No one is quarrelling about the need for creation of additional districts where there is necessity. But the point is: It is tragic when the Government of the day, that should be in the forefront in observing the Constitution and the law, actually proceeds to breach the same, in the creation of those districts. That is the point. So, it is not whether the districts are necessary or not. That is not the issue. It is the necessity of complying with the law. Why has the Attorney-General allowed the Government, of which he is the Chief Legal Advisor, to breach the Kenya Constitution in the creation of those districts? Will the Attorney-General now agree that until he brings the law to this House to authorise those districts, and without taking it for granted, that this House will retrospectively validate legally the creation of those districts; until that happens, those districts are unconstitutional, illegal and they must be disbanded until they are created in accordance with the Constitution and the law?

It is tragic that the Government should be in the forefront in breaching the Constitution. As to whether or not we should create additional districts, we can debate that when the Constitution and the law is complied with. It was not for nothing that even in 1963, the provinces and the districts were actually a schedule to the Independence Constitution. It is because our forefathers who negotiated the Independence Constitution realised the political importance of the districts. So, no one is suggesting that we should not sub-divide and create more districts. But let us do it in accordance with the Constitution and the law.

The Government, it is not just in respect of the creation of the districts, where they brazenly and blatantly breached the Constitution, but all the existing Ministries in the current Government are created contrary to Section 16 of the Constitution of Kenya. That section says that it is this Parliament that will fix the number of Ministries.

We have never created any Ministries. The alternative is for the Attorney-General to bring an Act of Parliament for us to pass, authorising the President to fix the number of Ministries. We have never done it. So, this is the frontier of anarchy, where the Government of the day is actually founded on breach of the Constitution. Anarchy is when the Government of the day fails to respect the Constitution and the law. It does not matter whether you send delegations to the President. That is the exercise of raw power. He is doing so because he has got the Army, police and Provincial Administration behind him. His attitude is: Wacha wapige kelele! Watafanya nini?" This is ruling by force! This is not a Government which is governed by law and the Constitution. If the Government does not want to facilitate a proper constitutional review, so that we can get them out through the ballot box, we are going to adopt other measures to kick it out of the office!

With those few remarks, I beg to support.

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Speaker, Sir, this is a democratic Government under the rule of law, and which does everything in accordance with the law. The characteristic of a Government under the rule of law is that, where it is found that any action on the part of the Government is in breach of the law, the Government under the rule of law will take immediate steps to rectify that breach. That is why we have the words "breach of the law". That is what has happened in this case. What has happened is that we have new districts which have not yet been legislated in Parliament as required under our Constitution. What has happened is that the Government is aware of that, and because the Government is under the rule of law, the Government will take steps, as I informed the House when I was answering this Question---

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

The Temporary Deputy Speaker (Mr. Muturi): Do you need the information?

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Speaker, Sir, I do not need it because I have a very short time. Let me just complete first and then, if I have spare time, I will give you time to give me that information. That is why I informed this House, when answering this Question, that the Government is taking

immediate steps to rectify the error. In fact, the cartographer, as I said, has already completed delineating boundaries in 28 districts. he is about to complete delineating boundaries in 14 districts.

Mr. Munyasia: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Attorney-General in order to mislead this House that the Government is taking immediate steps when the breach of the Constitution has been continuous from 1993 up to now, that is 2001? What immediate reaction is this for the Government to take steps? Is he in order to mislead the House that the steps he intends to take are immediate when the breach has been continuous for over ten years?

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Speaker, Sir, those who are familiar with the profession of cartography will know that it takes quite some time to go round delineating boundaries by degrees, centimetres and kilometres and so on. It is a big job, but part of the problem has been that boundaries have been in dispute and as the Member of Parliament well knows, even on that particular issue, there was a Mwangovya Committee which has gone into that area trying to get the people agree on the boundary dispute in his area.

Mr. Kiunjuri: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Attorney-General in order to deal with the issue of regularising the districts when he is not tackling the actual issue of really bringing a comprehensive review whereby in Rift Valley Province people from the border of Tanzania go to their provincial headquarters which is Nakuru? Even those people from Athi River go to Nakuru! Could he now bring a comprehensive review of both province and the district boundaries?

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Speaker, Sir, for the time being, we are focused on districts. As far as the boundaries of provinces are concerned, the districts are promulgated under an Act of Parliament.

Mr. Angwenyi: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Attorney-General in order to mislead this House that he has not regularised these issues simply because he cannot have the boundaries done? In fact, he knows to contravene the Constitution is an impeachable offence. In fact, we should be impeaching the Government!

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Speaker, Sir, it is avoidable. We are now focusing on the districts. As far as provinces are concerned, it is still a constitutional issue. The boundaries of districts are a legislative matter. The boundaries of provinces are constitutional issues and I hope that it is one of the issues which the Constitution of Kenya Review Commission (CKRC) will look into. Therefore, we are all agreed that new districts are needed. At Independence, we had ten million people and now we have almost 30 million. We need the administration closer to the people. As has been contributed from the Floor of the House, most of these districts have come about as a result of the wishes and aspirations of the people. Because this is a sensitive Government, they may have been overhasty in---

Mr. Michuki: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Attorney-General in order to talk about this demand and what-not when he knows that the power to create districts is vested in this Parliament? Not anybody else! Whether delegations to the President or elsewhere, the power is here and not elsewhere!

The Attorney-General (Mr. Wako): I agree with you, but the law has to be in conformity with the wishes of the people. The law is there at the service of man and not man at the service of law. What we are saying now is that the law will be---

Mr. Angwenyi: On a point of order, Mr. Temporary Speaker, Sir. The law is there to serve the country but it must be observed!

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Muturi): Hon. Members, it is now time for the interruption of business. The House is, therefore, adjourned until this afternoon at 2.30 p.m.

The House rose at 1.00 p.m.