

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 23rd July, 1998

The House met at 2.30 p.m.

[Mr. Deputy Speaker in the Chair]

PRAYERS

PAPERS LAID

The following Papers were laid on the Table:-

The Annual Report and Accounts of Meru Mulika Lodge for the year ended 30th June, 1991 and the Certificate thereon by the Auditor-General (Corporations).

The Annual Report and Accounts of Meru Mulika Lodge for the year ended 30th June, 1992 and the Certificate thereon by the Auditor-General (Corporations).

The Annual Report and Accounts of Meru Mulika Lodge for the year ended 30th June, 1993 and the Certificate thereon by the Auditor-General (Corporations).

The Annual Report and Accounts of Meru Mulika Lodge for the year ended 30th June, 1994 and the Certificate thereon by the Auditor-General (Corporations).

The Annual Report and Accounts of Meru Mulika Lodge for the year ended 30th June, 1995 and the Certificate thereon by the Auditor-General (Corporations).

The Annual Report and Accounts of Marsabit Lodge for the year ended 30th June, 1994 and the Certificate thereon by the Auditor-General (Corporations).

The Annual Report and Accounts of Marsabit Lodge for the year ended 30th June, 1995 and the Certificate thereon by the Auditor-General (Corporations).

The Annual Report and Accounts of Kenya Tourist Development Corporation (Utalii Investments Limited) for the year ended 30th June 1996 and the Certificate thereon by the Auditor-General (Corporations).

(By the Minister for Tourism)

ORAL ANSWERS TO QUESTIONS

Question No.486

NATIONAL LIBRARY SERVICES IN WAJIR TOWN

Mr. M.A. Muhamud asked the Minister for Home Affairs, National Heritage, Culture and Social Services:-

(a) if he is aware that Wajir District does not have a branch of Kenya National Library Services; and,

(b) considering the importance of libraries, if he could inform the House as to when library services will be provided, especially in Wajir Township.

The Assistant Minister for Home Affairs, National Heritage, Culture and Social Services (Mr. Marrimoi): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am aware that Wajir District does not have a branch of the Kenya National Library Services. It is for this reason that the Kenya National Library Services Board has initiated actions to establish a branch in Wajir District as soon as possible.

(b) The Kenya National Library Services Board has finalised the plans and all arrangements to establish a branch library in Wajir Town as soon as possible.

Mr. M.A. Muhamud: Mr. Deputy Speaker, Sir, Ministers keep on telling us that things will be done as

soon as possible. I think that phrase is misleading. I would like the Assistant Minister to confirm to us which year he is going to put up a library in Wajir. It is very well known that Wajir has the highest record of illiteracy in the country. Let him not deny us access to knowledge.

Mr. Marrimoi: Mr. Deputy Speaker, Sir, the Kenya Library Services Board has identified professional staff to commence the operations of the library with effect from 1st September, 1998.

Dr. Ochuodho: Mr. Deputy Speaker, Sir, the issue of Kenya National Library Services is a very crucial one. In my own district, Homa Bay, covering five other districts, there is no single KNLS library. Could the Assistant Minister tell us what criteria they use to create new district libraries, and when they created the last one.

Mr. Marrimoi: Mr. Deputy Speaker, Sir, while considering the importance of library services, the board, under its community-based approach, encourages all communities in the country to form local library development committees under the Provincial Administration for the purpose of availing the necessary infrastructure, and then the board assists with books and personnel.

Dr. Ochuodho: Mr. Deputy Speaker, Sir, the Assistant Minister has not answered my question. When did the Kenya Library Services create the last library?

Mr. Marrimoi: Mr. Deputy Speaker, Sir, as I mentioned earlier on, the hon. Member should liaise with his local library development committee, so that an infrastructure is put in place, and then the Ministry will assist with books and personnel.

(Several hon. Members stood up in their places)

Mr. Deputy Speaker: Order! If you want to ask supplementary questions, just stand up and if you catch my eye, I will give you a chance to ask a question, instead of all of you standing up on points of order.

Mr. Katuku: On a point of order, Mr. Deputy Speaker, Sir. Could the Assistant Minister tell the House when his Ministry established a library at the district level last? This is because we also need one in Machakos District.

Mr. Marrimoi: Mr. Deputy Speaker, the Member knows very well that due to lack of funds---

Mr. Deputy Speaker: Hon. Assistant Minister, either you know the dates or you do not. If you do not know, say so.

Mr. Marrimoi: The provision of library services has been going on ever since but due to lack of funds, we have not been able to---

Mr. Deputy Speaker: Order! Order, hon. Assistant Minister! If you do not have the information, just say you do not have it. I will give you time to find out.

Mr. Marrimoi: Mr. Deputy Speaker, you know that I cannot cook up the dates. I will go back and inquire when this was done; the facts are there.

Mr. Deputy Speaker: So, hon. Assistant Minister, is Tuesday next week okay for you?

Mr. Marrimoi: Mr. Deputy Speaker, Sir, I will bring the information on Wednesday.

Mr. Deputy Speaker: Order! Hon. Members, the Minister for Health, hon. Kalweo, has had to attend to an emergency. He came to me and made a request, and we agreed that Questions Nos.496, 503 and 484 be deferred until Tuesday, next week. So, I would like to request hon. Kiminza, hon. Ochuodho and hon. Mwenda to, please, bear with him until then.

Question No.496

QUALIFIED STAFF FOR KATILINI DISPENSARY

Question deferred

Question No.503

IMPROVEMENT OF HEALTH SERVICES IN RANGWE

Question deferred

Question No.484

UNDERSTAFFING OF HEALTH INSTITUTIONS
IN THARAKA

(Question deferred)

Question No.504

MAINTENANCE OF ROAD NO.C92

Mr. Ita asked the Minister for Public Works and Housing:-

- (a) if he is aware that many sections of Road No.C92, Nthagaiya-Karurumo-Kanyuambora-Ishiara-Meru, have been impassable for quite sometime;
- (b) if he is further aware that the Government pledged last December that Karurumo-Kanyuambora-Ishiara section of the same road would be repaired and made passable; and,
- (c) since this road is still not passable and considering that it is a critical commercial link between Ishiara-Embu and Meru, if he could appraise the House as to when the road is going to be repaired and made passable.

Mr. Deputy Speaker: Is the Minister for Public Works and Housing not here? Since they are [not there, we will come back to the Question later.

Question No.495

REHABILITATION OF NDIA WATER PROJECT

Mr. Kibicho asked the Minister for Water Resources:-

- (a) whether he is aware that Ndia Water Project has not been serving the community as was intended and that in some sections the pipes have dried up;
- (b) whether he is further aware that this project was due for expansion in 1980, and that to date, no work has started; and,
- (c) if the answers to "a" and "b" above are in the affirmative, what steps are in place to revive the project.

The Minister for Water Resources (Mr. Ng'eny): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am aware that Ndia Water Supply Project has not been serving the community as intended. This is because the water demand of 20,000 cubic metres per day far outstrips the daily supply of 12,720 cubic metres. In addition, the water supply needs expansion since it has outlived its design period.

(b) I am aware that Ndia Water Supply Project was due for expansion in 1980. The expansion of the project requires Kshs500 million. This money is not available at the moment.

(c) My Ministry plans to carry out major rehabilitation and expansion of Ndia Water Project as a long term measure. In the meantime, the Ministry has embarked on various minor augmentation and rehabilitation works at a cost of Kshs1.2 million, while awaiting funds for the major expansion works.

Mr. Keriri: Mr. Deputy Speaker, Sir, this is a project which has been on for a long time but it does not yet serve its purpose. Could the Minister tell us how much money this project generates per year? This is because the people pay for this water. The National Water Conservation and Pipeline Corporation collects money. How much money does this project generate per year?

Mr. Ng'eny: Mr. Deputy Speaker, Sir, Phases 1A, 1B and 1C of the project were completed some years back and they are operational. The National Water Pipeline Corporation is in charge of collecting money and running the water projects. As of now, I do not have the figures of the amount of money they generate per year. If need be, I will supply that information subsequently.

Mr. Deputy Speaker: When will you do that?

Mr. Ng'eny: Tuesday, next week, Mr. Deputy Speaker, Sir.

Mr. Nderitu: On a point of order, Mr. Deputy Speaker, Sir. I happen to come from that area. When the hon. Minister says that Phase 1C of the project is operational, that is where my constituents are supposed to benefit from. Since 1990, this water has not been reaching area C as mentioned by the Minister. Could the Minister tell this House what they need the Kshs500 million for?

Mr. Ng'eny: Mr. Deputy Speaker, Sir, the Ndia Water Project was conceived during the economic boom. As you will notice, this was in the 1980s, and even in the early 1970s, when it was thought that there would be a lot of money. So, in the course of time, the three phases of the project were implemented at a total cost of Kshs120 million. The project was designed to cover several divisions, which include Mwea. However, in the course of time funds ran out. But I am happy to say that the Ndia Water Project is very lucky because, as I speak here now, my Ministry has allocated Kshs14 million in the current financial year for this project. We have given this project priority. So, these people should be thankful.

(Laughter)

Mr. Deputy Speaker: Order! Order, hon. Members! Hon. Nderitu, what is it?

Mr. Nderitu: On a point of order, Mr. Deputy Speaker, Sir. I have asked the Minister to tell the House where they intended to utilise the Kshs500 million but he never explained that. So, could he say why he requires this amount of money and where it will be utilised and for what purpose?

Mr. Obwocha: On a point of order, Mr. Deputy Speaker, Sir. Is the Minister in order to evade a legitimate question? When will the Ndia Water Project get to Mwea Division in Kirinyaga District?

Mr. Deputy Speaker: Order! Order, hon. Obwocha! That is not a point of order. Hon. Nderitu seems to be satisfied that the Minister has now explained---

Mr. Nderitu: I am not satisfied, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Order!

Mr. Gitonga: Mr. Deputy Speaker, Sir, since most of those projects managed by the Ministry of Water Resources do not appear to be functional, would the Minister consider handing them over to the local communities and give them financial assistance to run them? The Government has failed to run them properly and even this Question states that some pipes are dry.

Mr. Ng'eny: Mr. Deputy Speaker, Sir, I would like to inform the hon. Member that, in fact, he might be anticipating the policy of the Ministry. When that project matures fully, we intend to hand it over to the local community.

Mr. Keriri: Mr. Deputy Speaker, Sir, the hon. Minister has been kind enough to tell us that he will report back to the House next week with an answer to the question I posed about how much money the project generates. Can he also be kind enough to come back next week and tell us how the Kshs500 million and the additional Kshs14 million that has been allocated to the project during this financial year, is going to be utilised?

Mr. Ng'eny: Mr. Deputy Speaker, Sir, I think the hon. Member is asking a different question, and I would be happy if he puts up a Question.

Mr. Deputy Speaker: I agree with the Minister that, that was a different question.

Mr. Kibicho: Mr. Deputy Speaker, Sir, would the Minister confirm that, that project generates about Kshs6 million per month, and that, that money is adequate to maintain the project so that water can flow?

Mr. Ng'eny: Mr. Deputy Speaker, Sir, I have already promised that I am going to give the figures next week.

Mr. Deputy Speaker: Next Question, hon. Kamande.

Question No.408

PAYMENT OF COMPENSATION TO FARMERS

Mr. Kamande asked the Minister for Natural Resources:-

(a) if he is aware that a lion killed a cow belonging to a Mr. Daniel Kamau, and two pigs belonging to Mr. Mwangi Ng'ang'a of Gakoigo Sub-Location, Nginda Location, on the night of 10th October, 1996; and,

(b) if the answer to "a" above is in the affirmative, when those farmers will be compensated for the losses incurred due to attacks by the wild animals.

The Assistant Minister for Natural Resources (Mr. Lengees): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am aware that a lion killed a cow belonging to Mr. Daniel Kamau, and two pigs belonging to Mr. Mwangi Ng'ang'a, on the night of 10th October, 1996. Both cases were reported at the Kenya Wildlife Service (KWS), Murang'a Station on 12th October, 1996.

(b) The farmers will not be compensated for losses incurred due to attacks by wildlife. Compensation for

loss of livestock was outlawed in 1989 following the amendment of Section 62 of the Wildlife, Conservation and Management Act, Cap.376, *vide* Act No.16 of 1989. The Ministry has advised members of the public in that area to construct effective enclosures in their homesteads and provide adequate protection for their livestock in order to ensure their safety.

Mr. Kamande: Mr. Deputy Speaker, Sir, the area in question is a rural area, and we do not have any national park within Maragua District. Where did that animal come from to terrorise the people of Kamahuha Location, and it even killed a donkey along Makutano-Sagana Road?

Mr. Lengees: Mr. Deputy Speaker, Sir, wild animals wander all over the remote areas of the country.

Mr. Ndicho: Thank you, Mr. Deputy Speaker, Sir. The Assistant Minister has advised the people of that area to construct cow sheds to protect their livestock from lions. I agree with the hon. Member that, that is a rural area. Can the Assistant Minister tell us the kind of materials those people are supposed to use to construct cow sheds to protect their livestock

from lions? Is he suggesting that we use concrete? What the Assistant Minister is saying is untenable. So, we are advising the people in that area to kill any wild animal that is roaming around their homesteads.

Mr. Lengees: Mr. Deputy Speaker, Sir, I am also a Member from an area where wild animals are causing a lot of problems to the livestock owners. I would like to advise the hon. Member that livestock owners in the affected areas are best placed to know the best materials to use to keep away wild animals. I would like to assure the House that there are game rangers and an office of the KWS in that area; so, they should not kill the wildlife but report directly to those concerned, and they will kill them.

Mr. Kamande: Mr. Deputy Speaker, Sir, Gakoigo Sub-Location is not a remote area, it is within Maragua Town; in fact, Mr. Daniel Kamau's homestead neighbours the town. How can we protect ourselves from wildlife invasion in town?

Mr. Lengees: Mr. Deputy Speaker, Sir, according to the information available, that lion killed the livestock around Maragua on 12th October, 1996, but in my own area, they kill them daily, because the lions are just wandering around with our livestock. So, I would like to ask the hon. Member, because he comes from a remote area; to advise the locals to put up proper homesteads for their livestock.

Mr. Kamande: Mr. Deputy Speaker, Sir, I would like to inform the Assistant Minister that Maragua Town is not a remote area; it is a town along Makutano-Murang'a Road. Is that a remote area?

Mr. Lengees: Mr. Deputy Speaker, Sir, the hon. Member maintains that Maragua is not a remote area; but wild animals are all over. They are even around Nairobi where they also attack livestock.

Kihoro: Mr. Deputy Speaker, Sir, I think proper measures should be taken in this situation, because if a lion has killed one cow, it can kill a second cow and several others. Maybe, before it kills 100 cows, it might also kill a human being. It is important that the Assistant Minister institutes proper measures to ensure that lions roaming around are properly caged. Is the Assistant Minister going to take up that measure, or is he just going to dismiss the killing of cows?

Mr. Lengees: Mr. Deputy Speaker, Sir, the hon. Member has given a very good suggestion, but I would like to say that even the Maragua KWS office has rangers who can kill those lions if they kill livestock. Also, the department has already given one Land Rover to assist the station have a mobile unit to protect the locals within the area.

Mr. Ita: Mr. Deputy Speaker, Sir, I just overheard the Assistant Minister say that the KWS rangers kill the lions that attack the domestic animals. In February, in my constituency, a rogue lion killed 31 cows and when I called the KWS rangers, they came. Instead of killing the lion, they were actually sort of protecting it until they chased it away from the constituency. Is the Assistant Minister not misleading this House when he says that these people come to kill those lions when, in fact, they come to protect them? Instead of even suggesting that the farmers should be compensated, he is saying that they should not be compensated, if I heard him right.

Mr. Lengees: Mr. Deputy Speaker, Sir, I am not aware that there were 31 cattle that were killed in the hon. Member's constituency, but what we are very sure of, and what we have been doing even in my own area and some other remote areas of this country, is to ensure that when a lion kills cattle or human beings, the case is reported to the KWS, and I am sure that they are not there to protect the wild animals. They will have to pursue the lion and kill it if they find it.

Mr. Kibaki: On a point of order, Mr. Deputy Speaker, Sir. I want to pursue this issue on a point of order, so that you may protect us. The hon. Member is categorical that when the rangers are called, where these animals have killed people or livestock, they do not protect the wildlife, but they take action. He is totally wrong because the practice in the field is that they come and protect the animal and try to take it back. Only two weeks ago, they were doing that same action in Nyeri where elephants had actually invaded people's farms. They are doing that

everywhere. That is what they are doing. Is it a policy? This matter is very serious because I do not know whether we should protect human beings or animals. He cannot have it the way he is doing it because it is much too serious a matter.

Mr. Lengees: Mr. Deputy Speaker, Sir, I know that the Question is a little bit sensitive, but the thing is this: Referring to the Nyeri problem, yes, we knew that the elephants invaded some farms there and there must be a difference between livestock and a human killing.

Question No.504

MAINTENANCE OF ROAD NO. C92

Mr. Ita asked the Minister for Public Works and Housing:-

- (a) whether he is aware that many sections of Road No.C92 Nthagaiya-Karurumo-Kanyuambora-Meru, have been impassable for quite some time;
- (b) if he is further aware that the Government pledged last December that Karurumo-Kanyuambora-Ishiara section of the same road would be repaired and made passable; and,
- (c) since this road is still not passable and considering that it is a critical commercial link between Ishiara-Embu and Meru, if he could appraise the House as to when the road is going to be repaired and made passable.

The Assistant Minister for Public Works and Housing (Mr. Khaniri): Mr. Deputy Speaker, Sir, I sincerely apologise to the hon. Member and, indeed, the whole House for not being available to answer this Question when it was asked for the first time. However, I beg to reply.

(a) I am aware that some sections of the Road No.C92, Nthagaiya-Karurumo-Kanyuambora-Ishiara-Meru, have been impassable during wet seasons.

(b) I am further aware that the Government pledged last December that Karurumo-Kanyuambora-Ishiara section of the same road would be repaired and made safely passable. Consequently, during the second half of the 1997/98 financial year, spot-patching was done on all the bad areas and installation of five culverts was done between Kanyuambora and Ishiara on the road at a cost of Kshs1 million.

(c) The road linking Karurumo-Kanyuambora-Ishiara, which forms a section of the Road C92, junction B6 to Meru, will be repaired and works will commence immediately funds for the 1998/99 financial year are issued to the district. A sum of Kshs1.3 million will be issued to be shared by Embu-Mbeere, Meru South and Meru Central, which the road traverses, for the repair works.

Mr. Ita: Mr. Deputy Speaker, Sir, I am really surprised by the answer given by the Assistant Minister. First, I do not understand whether we are talking of the same roads and one of the things that I would like to state just before I put my supplementary question is whether the Assistant Minister would agree at one stage, through you, that we go and visit this road because I do not know whether we are talking of the same road. First of all, he is talking of a road that is impassable during wet seasons. That is the answer that I have got.

My question is: The road has been impassable for quite some time; in fact, years. So, you have not answered that part of the Question. I have consulted hon. Members who come from the districts which are served by this road and they are in this House, and they can confirm through you that this road has been impassable. So, I do not know whether we are talking about the same road.

Mr. Deputy Speaker, Sir, is the Assistant Minister in order to tell us that the section of the road that was patched covered six kilometres from Kanyuambora to Ishiara and that Kshs1 million was spent? He has also said that the rest of the 60 kilometres will be serviced and that Kshs1.3 million will be spent. Is the Assistant Minister in order to say that?

Mr. Khaniri: Mr. Deputy Speaker, Sir, yes, I am in order. I am more than willing to visit the road the hon. Member has requested. In my first reply, I said that I am aware that some sections of the road, that is C92, Nthagaiya-Karurumo-Kanyuambora-Ishiara-Meru have been impassable during wet seasons. That means that I was denying that the road is totally impassable.

Mr. Kibaki: Mr. Deputy Speaker, Sir, maybe, the Assistant Minister is not aware that a promise was made on 4th, February, during the campaigns by KANU, that this road would be tarmacked, and this promise was made by the main presidential candidate of KANU. I know that is the case because I personally listened to that speech. Will the Assistant Minister, therefore, stand up and own up that KANU did promise, through their main presidential candidate, that this road would be tarmacked and, in fact, the people in the three districts are waiting for the road to be tarmacked, and not just a few chips to be put there?

Mr. Khaniri: Mr. Deputy Speaker, Sir, I am not aware that any pledges were made to tarmac this road. However, I am aware that pledges were made that this road would be repaired and, indeed, repairs of Karurumo-Kanyumbora-Ishiara section were undertaken in January this year at a cost of Kshs1 million.

Mr. Mwenda: Mr. Deputy Speaker, Sir, we are talking about a very important road. This is a road which serves five districts, namely; Mbere, Embu, Meru South, Tharaka and Meru Central Districts. Is the Assistant Minister satisfied that a sum of Kshs1.3 million is sufficient to make this road passable when there are several culverts which have been washed away by the *El Nino* rains?

Mr. Khaniri: Mr. Deputy Speaker, Sir, the money we have budgeted for that road during this financial year will be able to facilitate proper grading and normal routine maintenance, including bush clearing, drainage cleaning and culvert cleaning.

Mr. Keriri: Mr. Deputy Speaker, Sir, we must make a plea that the Assistant Minister becomes more serious. He has been told by hon. Members from those areas that several culverts have been washed away. In fact, he can confirm that from his colleague on his right. He tells us that he is only going to grade the road. Why does he have to grade a road when all the culverts have been washed away? Why waste the money when people cannot go across the culverts? He has not mentioned the repair of any culverts. Can he tell us how he is going to do that?

Mr. Khaniri: Mr. Deputy Speaker, Sir, if the hon. Member was keen enough, he should have heard me say that this money will also be used in the installation of culverts.

Mr. P.K. Mwangi: Mr. Deputy Speaker, Sir, I want to clarify to the Assistant Minister one fact. He said he used about Kshs1 million along this road. I just want to inform him that in Makuyu---

Mr. Deputy Speaker: Order! Do you want to ask him a question or to inform him?

Mr. P.K. Mwangi: I just want to inform him.

Mr. Deputy Speaker: I cannot allow that. Last question, hon. Ita!

Mr. Ita: Mr. Deputy Speaker, Sir, I want to pursue the point that, maybe, the Assistant Minister should agree that we visit this road so that when we talk, we have the same road in mind. I would like him to confirm when he can come so that we can visit this road. By so doing, we can come to terms and talk the same language. I do not think he is serious. Can he, please, tell us when we can visit this road?

Mr. Khaniri: Mr. Deputy Speaker, I just want to reassure the hon. Member that I am very serious about this Question and we can visit the road when Parliament goes on recess, next month.

QUESTIONS BY PRIVATE NOTICE

SHOOTING OF FORMER COUNCILLOR MAINA

Mr. Deputy Speaker: Hon. Maina Kamanda!

(**Mr. Kamanda**) to ask the Minister of State, Office of the President the following Question by Private Notice:-

(a) Is the Minister aware that the former councillor for Kilimani Ward, Mr. S.M. Maina, was shot along Kimathi Street on 19th May, 1995, and grievously wounded?

(b) Is he further aware that the incident was reported to the Central Police Station, Nairobi, on the same day?

(c) If the answers to "a" and "b" above are in the affirmative, what are the results of the police investigations and how many persons have been arrested over the incident?

Mr. Ndicho: Mr. Deputy Speaker, Sir, considering the gravity of this Question and given the fact that the hon. Member is not present, I plead with the Chair that instead of being dropped, this Question be deferred.

Mr. Deputy Speaker: I am sure the hon. Member knew of the gravity of the matter! He should have shown seriousness about it by being present. That Question will be dropped.

(Question dropped)

SHOOTING OF MR. BUKURA

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

(a) What were the circumstances that led to the shooting, and consequent death of Mr. Ali Kosi Bukura in Isiolo District on 14th June, 1998, by the Flying Squad of the police unit, since the matter was reported to Isiolo Police Station?

(b) Could the Minister order an inquest to establish the truth and bring the culprits to book?

The Assistant Minister, Office of the President (Mr. Angwenyi): Mr. Deputy Speaker, Sir, I am sure Mr. Kamanda received our answer and he was satisfied.

Mr. Deputy Speaker: Mr. Angwenyi, you are answering Question No.2 by Private Notice!

(Laughter)

Mr. Angwenyi, it is not common to find Ministers answering Questions that have not been asked!

The Assistant Minister, Office of the President (Mr. Angwenyi): Mr. Speaker, Sir, I beg to reply to hon. M.A. Galgallo's Question.

(a) Mr. Ali Kosi Bukura was shot by police officers from the Flying Squad who were pausing as buyers of illegal firearms. The deceased and his colleagues opened fire on the police officers after the officers had identified themselves and had ordered the suspects to surrender. In the ensuing shootout, Mr. Ali Kosi Bukura was shot dead, Ibrahim Henry Mohammed was arrested while a third suspect escaped.

(b) Isiolo Police Inquest file No.798 was opened following the fatal shooting. Appropriate action will be taken depending on available evidence.

Mr. M.A. Galgallo: Mr. Deputy Speaker, Sir, the Assistant Minister's answer is grossly unreasonable. He has actually stated that these police officers had paused as buyers of illegal arms. Experienced as they are, I would not think police officers would leave the men who had given them guns still armed so that they could shoot back at them later on.

However, I am informed reliably by the family that the late Mr. Ali was requested by the police officers to take them to a friends' house and it was in that friend's house that there was some fracas, I do not know for what reason. The policemen had broken the late Mr. Bukura's thighs. They had beaten him until his thighs were broken. That information is on the postmortem form which I am going to table. In view of this information, could the Assistant Minister take this matter very seriously and ensure that this policeman who killed Mr. Bukura - who had a case and was released from the police cells due to interference by higher authorities - will be investigated and brought to book?

Mr. Angwenyi: Mr. Deputy Speaker, Sir, I did not say that the officers searched the prospective sellers of these illegal firearms. However, the Government has opened this inquest file and we are pursuing the matter. If the police officer is found to have shot Mr. Bukura without cause, we will charge him in a court of law.

Mr. Wamae: Mr. Deputy Speaker, Sir, is the hon. Assistant Minister aware that the Flying Squad is very quick in shooting? Would he ask them not to shoot first and to be more careful in using firearms?

Mr. Angwenyi: Mr. Deputy Speaker, Sir, as we are aware, our police officers are professionally trained but they must defend themselves in cases where people would want to shoot them down first. The Flying Squad is doing a very good job for us; especially before we get the guns you were asking for yesterday.

Mrs. Mugo: Mr. Deputy Speaker, Sir, this problem of trigger-happy administration policemen and the regular police shooting innocent law abiding Kenyans is very prevalent in our society. Can the Assistant Minister tell this House what the Government is doing to protect these innocent Kenyans? A grandmother, Wachera, was shot dead a few months ago at Kahawa by an administration police officer through the orders of a chief. That chief, together with the administration police officer, are still free and, walking around. Why have they not been arrested and charged in a court of law?

Mr. Angwenyi: Mr. Deputy Speaker, Sir, our police officers are not trigger-happy as we say. When they try to apprehend offenders, sometimes those offenders have illegal weapons which they use to attack and even kill the police officers. They must defend themselves, otherwise, they will not do their job!

Mrs. Mugo: On a point of order, Mr. Deputy Speaker, Sir. Is the Assistant Minister in order to mislead this House that an old grandmother like Wachera had any firearms on her? She was peaceful and just demanding her God-given rights to be left to stay where she was living in her peaceful house.

Mr. Angwenyi: Mr. Deputy Speaker, Sir, I did not talk about grandmothers.

Mr. Muchiri: Mr. Deputy Speaker, Sir, the Assistant Minister is evading the question. The question is: Why were the chief and the administration policemen not arrested? They are still discharging their duties! Could he answer that question.

Mr. Angwenyi: Mr. Deputy Speaker, Sir, Kenya is not a police state. Whenever an incident like that

one occurs, we investigate it. If it is proved that a person was an offender, it does not matter whether he is a chief, a DO or administration policeman, we take action against him.

Mr. Obwocha: Mr. Deputy Speaker, Sir, the legitimate Question by hon. M.M. Galgalo says that the Assistant Minister was told that this man was hit by a blunt object as per postmortem report. Now that he has agreed that that policeman shot this man, could he confirm to this House that this man will be interdicted pending investigations that he has said they are carrying on?

Mr. Angwenyi: Mr. Deputy Speaker, Sir, as I said, investigations are going on and if we get substantial evidence in regard to what has been said here, we will apprehend this man and take him to court.

Mr. M.M. Galgalo: Mr. Deputy Speaker, Sir, the information in the postmortem report does not show that Mr. Bukura was shot. Actually, he was injured, maybe with a knife or a blunt object. The postmortem report does not say there was a gun shot. Could the Assistant Minister now have this man arrested to ensure that he does not interfere with investigation?

Mr. Angwenyi: Mr. Deputy Speaker, Sir, what I can promise is that this man will not interfere with the investigations.

Mrs. Mugo: Mr. Deputy Speaker, Sir, before I ask my Question, I wish to say that I have not been given a written reply.

SALE OF JOSEPH KANG'ETHE ESTATE HOUSES

Mrs. Mugo: Mr. Deputy Speaker, Sir, I beg to ask the Minister for Local Authorities the following Question by Private Notice.

(a) Is the Minister aware that there have been reports of illegal sale of houses at Joseph Kang'ethe Estate, Woodley, as detailed in a letter to him dated 26th March, 1998?

(b) If the answer to "a" above is in the affirmative, what measures has the Minister put in place to ensure that the current occupiers who are the bona fide residents are given first priority in the event of any sale of these houses?

The Minister for Local Authorities (Prof. Ongeri): Mr. Deputy Speaker, Sir, a written reply was sent to this House through the Clerk of the National Assembly. If the hon. Member has not got it, then I am not to blame.

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

(a) I am not aware of any illegal sale of houses at Joseph Kang'ethe Estate and Woodley in Nairobi.

(b) Adequate measures are already in place and are clearly stipulated in the Local Government Act Cap.265, Laws of Kenya, with regard to disposal and acquisition of the Council's property.

Mrs. Mugo: Mr. Deputy Speaker, Sir, as late as on 3.4.98, the residents of Woodley wrote a letter to the Minister because they were worried of their tenancy. We saw on television orphans being thrown out of their houses. This was a house in which they have been brought up. They were being evicted just because their parents are dead. Since those houses are being privatised, what machinery is in place to make sure that the tenants, who have been staying in these houses for over 30 years are given the first priority and they are not thrown out as we have been the case elsewhere?

Prof. Ongeri: Mr. Deputy Speaker, Sir, the law does not require any particular person to be given preference in the event that council intends to dispose of its property. However, discretion will always be exercised so that nobody is adversely affected.

Mr. Kibaki: Mr. Deputy Speaker, Sir, in view of the fact that we have heard stories from Mombasa, Kisumu, Eldoret and now in Nairobi about houses being sold, will the Minister make a public statement on whether he has directed or authorised councils to get rid of their houses, as a matter of policy, because these houses are for rental? Could he also tell us who decided that these houses could be sold? Or, is this part of the corruption, which he is pretending that he is controlling, when he is not doing anything?

Prof. Ongeri: Mr. Deputy Speaker, Sir, I will request hon. Kibaki to be conversant with Cap.265 of the Laws of Kenya, Sections 144 and 145 (f) and (g) respectively, which clearly show that a local authority is empowered to own or alienate land and other property. The procedure to do so, is stipulated in the Act. But any disposal and acquisition of a council's property that has been done without following the provisions of the Act is illegal. Any local council or municipality which has followed the stipulations of the Local Government Act, Sections 144 and 145, are within their rights. Therefore, there is no such thing as corruption if something has been done properly through normal council minutes.

Mr. Ndicho: Mr. Deputy Speaker, Sir, what the Minister has just told this House is very dangerous. If

councillors are aware of that then within a month, or so, there will be no houses belonging to the council in this country. This is a very dangerous precedent. I want to bring to the attention of the Minister the fact that in Thika, last year, councillors and the Town Clerk granted leases and letters of allotment for council houses in Kimathi Estate. Could the Minister tell us whether a council has mandate to grant leases for council houses and plots? If not so, could he declare that the action at Thika was illegal? Could he also withdraw what he has just told this House because all councils' houses and land will be grabbed within a month?

Prof. Ongeri: Mr. Deputy Speaker, Sir, hon. Ndicho is asking a completely different question. If he cares he could read the same chapter of the Laws of Kenya. There is laid down machinery on how a council's disposal and acquisition of property is supposed to be carried out. If such disposal or acquisition is not done within the framework of the law, then it is certainly illegal and action will be taken against officers or councils that negate the rules of the game. Our stand on corruption is very clear.

Mr. Ita: On a point of order, Mr. Deputy Speaker, Sir. The Minister is quoting sections of law here. Those sections - some of us who have read them - do give indications that the council must give public notice of what it intends to do, so that everybody is given a fair opportunity to participate in that process. Has that been done?

Prof. Ongeri: Mr. Deputy Speaker, Sir, if any hon. Member has any query or doubt as to whether any transaction has been done within the framework of the law, he is at liberty to raise the matter with the Ministry.

Mr. Gitonga: Mr. Deputy Speaker, Sir, in order to avoid any accusation of corruption, could the Minister consider giving the present tenants the first priority in the allocation of these houses, if they are going to be allocated?

Prof. Ongeri: Mr. Deputy Speaker, Sir, I have already said in my answer that consideration will be given to the tenants of those houses.

Mrs. Mugo: Mr. Deputy Speaker, Sir, the Minister wants us to believe that, but we know it is not the case on the ground. There is corruption, and tenants are being evicted from those houses despite the fact that they have paid rent for so many years. A friend of the Minister or the mayor can buy a house at a throwaway price. That is against natural justice. This issue is not new in this House. This House passed a Motion which was brought by hon. Ruhiu on 18.6.97 over those houses. Could the Minister tell us why that Motion, which was unanimously passed has not been implemented? When is this Government going to implement that Motion? If council houses are going to be privatised, then people who are living in them should be given the first priority.

Prof. Ongeri: Mr. Deputy Speaker, Sir, priority will be given to those tenants, but that does not mean that we break the law.

Mr. Keriri: Mr. Deputy Speaker, Sir, several Questions regarding local authorities have been asked and the Minister has been trying to answer them, like the one we have before us, but he keeps on saying that if something wrong is done, action will be taken. Has the Minister not, in fact, found out that some many things have been done the wrong way? So that he can, in fact, convince us that he has done something about this issue and even cautioned those councillors who have been doing the wrong things, can he tell us what he has done on a number of these things that have been raised?

Prof. Ongeri: Mr. Deputy Speaker, Sir, the examples are fairly clear. Recently, we sacked somebody from Thika, and the hon. Ndicho knows it very well. We also sacked somebody from Mombasa and somebody from Maragua, and I am just about to sack somebody from another town. Therefore, these are absolutely clear that the Ministry is alive with the situation.

Mr. Deputy Speaker: Order! Order! Order! This is the end of Question Time. Hon Karauri.

MINISTERIAL STATEMENTS

DIRECTORS OF VANESSA ASSOCIATES COMPANY

The Assistant Minister for Agriculture (Mr. Karauri): Mr. Deputy Speaker, Sir, while answering a Question by hon. Omamo on Tuesday, I promised to bring the names of the directors of Vanessa Associates which owns 51 per cent shares in Miwani Sugar Company. The Directors are Keitan Somaia, Raji Nsomee, C.S. Aiyeh and R.S. Chartesh.

SALARY PAYMENT TO 21 DISABLED WORKERS

The Assistant Minister for Education and Human Resource Development (Mr. Awori): Mr. Deputy

Speaker, Sir, on the 14th of this month, last week, while answering a Question by Private Notice from the Member of Mukurwe-ini, Mr. Muhika Mutahi, I was requested to bring evidence to show that the 21 disabled workers had been paid their salaries for January, February and March. I want to table the payrolls with the signatures to show that they were paid for January, February and March. I was also requested to show that the children of Mr. William Kariuki were not sent away and that they are still at school. I want to table a letter signed by Mr. Kariuki confirming that all the children are still at school. I was further requested to show how much money would be made for April, May and June. I will table a letter showing that an amount of Kshs1,600 for April, May and June has been set aside. Finally, there are signatures from all the workers indicating that they have received the money. Thank you.

(Mr. Awori laid the documents on the Table)

POINT OF ORDER

MINISTERIAL STATEMENT ON POLICE SHOOTING AT THE COAST

Mr. Maitha: On a point of order, Mr. Deputy Speaker, Sir. Three weeks ago, I made a personal statement on the way police shot two people in Coast Province; one at Kaloleni, Giriama, and the other one at Mtondia, in Kilifi District. The Office of the President promised that they were going to make a Ministerial Statement about the shooting, which they have not made. I made it on Zero Hour and I do not know what is happening. I am just standing on a point of order. It is already three weeks since that time. Thank you.

Mr. Deputy Speaker: Is the Minister of State, Office of the President, present? Well, word will be sent out to them.

MINISTERIAL STATEMENT

UTILISATION OF KISUMU CONTAINER DEPOT

The Assistant Minister for Transport and Communications (Mr. Sankori): Mr. Deputy Speaker, Sir, last week the Member for Nyakach, hon. Odoyo, in a supplementary question expressed concern over the low utility of Kisumu Inland Container Depot. He sought to know what the Ministry of Transport and Communications was doing to encourage the use of this facility. To respond to hon. Odoyo's concern, the Ministry wishes to make the following Ministerial Statement.

It is true that potential for Kisumu inland container depot has not been fully utilised leading to its low utilisation since commissioning. Lately, however, traffic through Kisumu Inland Container Depot has grown following increased utilisation of the depot by both local and transit traffic. Most containers destined to Kisumu by railway and not customs cleared at Mombasa, use the inland container depot. Importers are normally advised on the merit of using---

Mr. Muite: On a point of order, Mr. Deputy Speaker, Sir. With respect to my friend, the hon. Member for Kajiado Central, has he been sworn in as an Assistant Minister? He is answering a Question in his capacity as the Assistant Minister. Has he been sworn in and can we rely on what he is saying when he has not been sworn in?

The Assistant Minister for Transport and Communications (Mr. Sankori): Mr. Deputy Speaker, Sir, you can take it and confirm that this is the truth of the matter.

Mr. Muite: Mr. Deputy Speaker, Sir, for somebody who has not been sworn in as an Assistant Minister---

Mr. Deputy Speaker: Order! Order! Mr. Deputy Speaker takes no part in the swearing-in of Ministers and Assistant Ministers. Will the Assistant Minister himself confirm or deny that he has been sworn in?

The Assistant Minister for Transport and Communications (Mr. Sankori): Mr. Deputy Speaker, Sir, I have not been sworn in.

Mr. Deputy Speaker: Order! Order! In that case, I am afraid, I cannot allow you to act in that capacity if you have not been sworn in.

The Assistant Minister for Transport and Communications (Mr. Sankori): Mr. Deputy Speaker, Sir, can I ask my colleague, who has been sworn in, to reply to the Question?

Mr. Deputy Speaker: Order! Well, if you are telling me that you now want to exercise the principle of

collective responsibility, yes.

The Assistant Minister for Transport and Communications (Mr. Obure): Mr. Deputy Speaker, Sir, this is a question of technicality. I want to confirm here that my colleague has been given full authority to read this Statement. This is in response to a Question raised a few days ago by hon. Odoyo.

Mr. Kapten: On a point of order Mr. Deputy Speaker, Sir. The Assistant Minister is saying that he has been given authority by his colleague, but his colleague has not been sworn in! Is he in order to say that?

Mr. Deputy Speaker: Order! Order! He does not need to get authority from his colleague. Proceed, Mr. Obure!

The Assistant Minister for Transport and Communications (Mr. Obure): Thank you, Mr. Deputy Speaker, Sir. The Ministerial Statement I would like to make now in this House is in response to some concern expressed by hon. Odoyo, who is the Member for Nyakach Constituency, a few days ago.

Mr. Oloo-Aringo: On a point of order, Mr. Deputy Speaker, Sir. The Assistant Minister is a friend of mine, and I hate interrupting him, but, is this not a case of rigging in the House?

(Laughter)

Mr. Deputy Speaker: Order! Order! Those who know how to rig, we can recognise one when we see him--- I hope that hon. Oloo-Aringo is not telling us that he is an expert on this.

The Assistant Minister for Transport and Communications (Mr. Obure): Thank you, Mr. Deputy Speaker, Sir. I hope you will allow me to respond to the concern expressed by hon. Odoyo of Nyakach Constituency---

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

Mr. Deputy Speaker: Dr. Omamo, the Assistant Minister is on a point of order. Please, proceed, Mr. Obure!

The Assistant Minister for Transport and Communications (Mr. Obure): Mr. Deputy Speaker, Sir, it is true that the potential at the Kisumu Inland Container Depot has not been fully tapped. This has led to its low utilisation since it was commissioned. Lately, however, traffic through this depot has increased because of increased utilisation of the depot by both local and transit traffic. Most containers destined for Kisumu by railway transport, and which are not cleared by customs officials at Mombasa, use the inland container depot. Importers are normally advised on the merits of using the depot for such cargo, but they can exercise their right of off-loading their goods at any place of their choice. This can be done anywhere in Kenya, including Nakuru, if the goods have already been cleared by customs officials. The Ministry is prevailing on the Kenya Ports Authority (KPA) to improve its efforts in marketing Kisumu Inland Container Depot to the neighbouring countries such as Rwanda, Burundi, Uganda and the eastern part of the Democratic Republic of Congo. Once the inland container depot is in full operation, more people will be needed to run the services. Therefore, more people from the area, and the whole country, will secure job opportunities.

Thank you.

POINT OF ORDER

FATE OF A QUESTION BY PRIVATE NOTICE

Mr. O.K. Mwangi: On a point of order, Mr. Deputy Speaker, Sir. Thank you very much for giving me this chance to raise this point of order. My point of order is in respect of a Question I submitted on 14th July, 1998 to the Clerk of the National Assembly. The Question was directed to the Minister for Home Affairs, National Heritage, Culture and Social Services. I have not been given a written answer to it although it was a Question by Private Notice, which ought to have been answered within the next two days. This is the eighth day we are sitting here, and yet the Question has not been listed on the Order Paper. I have not been told by the Clerk of the National Assembly whether it was disapproved or not. This is why I am raising this issue. I am seeking the Chair's guidance on this Question. I thought that it was of national importance since it is about a team which is supposed to represent Kenya outside the country. Since the Question has not been answered, and the team is supposed to go out in August, 1998, this means that the country will not be represented.

Mr. Deputy Speaker: Thank you, hon. O.K. Mwangi. You have only brought that issue to my attention. I would like to assure you that I will follow it up and find out why the Question has not been answered. You will get an answer from me tomorrow.

BILL*Second Reading*

THE KENYA COMMUNICATIONS (AMENDMENT) BILL

*(The Minister for Transport and
Communications on 16.7.98)*

(Resumption of Debate interrupted on 23.7.98)

Dr. Ochuodho: Thank you, Mr. Deputy Speaker, Sir. Before I start to contribute, I would like, on behalf of the information industry, call upon Kenyans who maybe in a position to do so to support the candidature, Dr. Henry Chasia. He is currently the Deputy Director General of the International Telecommunications Union (ITU) and is aspiring for the seat of the Secretary General later this year. I do appreciate the efforts of the Ministry to assist him in his candidature. I would like to appeal to Kenyan ambassadors, who have good relationships with other countries, to back this candidate, so that a Kenyan can also head a United Nations (UN) agency.

Mr. Deputy Speaker, Sir, turning to the Bill, I would like to begin by saying that if Parliament and the Parliamentarians are not careful we will soon turn this House into a dinosaur, I am saying this by virtue of the facilities and resources that we are using in this House. One does not need to look very far to see the kind of telephone services that we have in this House. The very obsolete rotary type of telephones that we have are very good for bugging purposes, but are not as good as the current advanced and modern telephone facilities--- I raise this issue because I believe we are still living in yesterday's world because the telecommunication sector has not been liberalised. It is for this reason that I stand to support this Motion.

As we aspire to liberalise this sector, I may observe that the Kenya Posts and Telecommunications Corporation (KPTC) today generates an average of Kshs30 million per day. This is a lot of money. I do estimate that after two years, if the liberalisation plans go well, we should be able to earn at least Kshs5 billion every month from the telecommunication sector. I know that the Government is currently busy trying to find ways of paying teachers' salaries. I would like to tell it that one good way of taking care of the teachers' salaries is by making sure that the sector is liberalised. If we will be able to raise an extra Kshs5 billion per month from this sector, then there is every reason to be happy. This is because in the process, we will minimise our financial problems.

However, I want to say that we often get too preoccupied, for one reason or another with the outside world. We seem to depend too much on the developed world. I know that as the Government aspires to liberalise this sector, the so-called strategic partners will most likely look for a partner in the developed world. I would like to urge the Ministry that as the Government tries to liberalise this sector, it should focus first on local investment. We did this with the Kenya Airways, although we still had a strategic partner. I am glad that a good chunk of its shares were sold to local Kenyans through the Nairobi Stock Exchange (NSE). I would like to appeal to the Ministry that it should do the same during the liberalisation of the telecommunications sector.

I do appreciate that this country is not "uniform." There are some "tall" and "short" parts of the country. I would like to appeal to the Government to make provision for loan facilities so that the ordinary Kenyan can also have a stake in the telecommunications sector. I am talking about the indigenous Kenyans. If the Government takes the shares to the NSE, chances are that certain groups of people will buy the larger portion of the shares and thereby leave many Kenyans without a say in this industry.

Mr. Deputy Speaker, Sir, it is in the same light that I am supporting the evolution of telephone bureaus within the country. I would like to encourage many Kenyans to open up these bureaus within the country. They should not only open them in the City of Nairobi because, as we have been told, the telecommunications sector gives 300 per cent return almost instantaneously. So, it is a very lucrative industry. I would, therefore, suggest that we modernise by restructuring, and have the two Ministries operate together. In the same vein, while appreciating the efforts to liberalise and privatise KPTC, I would want to call upon the relevant Ministries to start pondering the possibility of liberalising and privatising KBC. The reason I am saying this is that if we are going by the objectives for which we are liberalising the telecommunication sector, the same would apply for the broadcasting sector. Yesterday, there was a Question concerning accessibility of television reception in certain parts of the country. In my opinion, there is no better way of ensuring universal access of the broadcasting media, than by privatising and liberalising that sector. I want to call upon the relevant Ministries to start exploring early enough, the possibilities of privatising KBC as well as the Kenya News Agency. As we have been told in this House, unless we do that very soon, some of these firms may also turn into dinosaurs.

I also want to address the issue of lack of adequate protection in the Bill especially for two groups; consumers and license holders. The reason I am saying this is, going through the Bill, there is a fair amount of Government protection but there is very little protection of the service providers. Those three are major players. For example, today if one wants to be a registered telecom company, of course, there is the rigorous procedure that one has to go through. However, one needs not go far to realise that there are quacks also selling telephone products. One needs only to go, say, into a supermarket and find telephone sets being sold there. To me, this is an example of a situation where a licence holder is not protected. Why do I need to go through the rigorous licensing procedure if I could sell my products in a supermarket, for example? I would, therefore, want to call upon the Ministry to ensure that the licence holders are adequately protected.

By the same token, we also need to protect the consumer. This is a major point of concern. My colleagues have talked about it and I have no intention of repeating it. This is the concern for the privacy of the consumer. I am delighted that the Ministry, in a way, did consent in the amendment to ensure that the privacy of the user is guaranteed. In the same vein, I would like to call upon the Attorney- General to come up with an appropriate Act, a Data Protection Act, so that if anybody is allowed to access your confidential data, it is with your knowledge. This is the current practice in the developed countries and I think there is no reason why we should be an exception. I would also like to draw the attention of the House to the WTO requirements. Sometimes we become signatories to some of these treaties that do not favour us very much. One of the WTO requirements is that by the January 1st, 1999, Information Technology (IT) and Telecom products should be exported or imported duty free. At a time when we are struggling to revive our economy, I do know that this industry earns us a pretty sizeable amount of money. The Minister for Finance has been pushing for total removal of taxation on IT products in the computer industry. I am not so sure that I would want to appeal for the same in the area of telecom products, especially at this stage. I want to say that while we may be the same, the Third World, Kenya included, should make sure that we get appropriate compensation to the extent that even if we are not going to levy any taxes on the computers and telecom products, we do not operate at a loss. If we are going to export or import duty-free, we should get commensurate compensation especially from our northern partner who have been strongly pushing for this treaty.

I also want to address the issue of redundancies. Many people believe that whenever you modernise or computerise, people will lose jobs. However, I would like to reassure the House and the country that where this is properly done, you actually end up creating jobs. While I know very well that KPTC is one of the major employers today, with about 30,000 people, I estimate that if we liberalise well, in the next two years, at least 100,000 Kenyans will get employment through this industry. I would also want to appeal to the commission, when it comes into existence, that it must look into the well being of the employees. Currently, there is a very weak pension scheme for the KPTC employees. I would want to appeal to the commission to make sure that this scheme is improved upon when liberalisation takes place. However, I am saddened to note in the Bill that it is being recommended that when the commission is eventually formed, the staff of the current corporation, particularly the CRA Department which is looking into liberalisation matters, will automatically transfer to that commission. In my opinion this is unacceptable because the corporation is an interested party. The commission is supposed to be an independent group or entity. While I am not suggesting that they should be totally locked out, I do not think that anybody who is an employee of the Communications Regulatory Authority Department should automatically go to the commission. I would want the commission to have a free hand to hire and fire whoever they think they require.

I also want to address the issue of the necessary by-laws. As we approach the next millennium, the global village is going to be a reality. Currently, it is a by-law requirement that whenever any building is being put up, necessary provision must be made for electrical wiring. The houses of the next century will be those ones whereby if you want tea, you just press a button and it comes automatically. It will not be delivered by a housemaid, but by machines. We will be talking of a wired house. In order to look ahead, I would want to appeal that we make provisions or come up with suitable by-laws to ensure that any modern building worth its salt should have a requirement that the necessary wiring for provision of telephone and computing facilities are provided at the time of construction.

Being a rural man, it would not be fair if I complete my presentation without addressing the inadequacy of telephones in the rural areas. We appreciate the fact that 80 per cent of our populace live in the rural areas, but that is an area where we hardly have any telephones. I would like to call upon the Ministry to bring before this House a rural Telecom Bill like the Rural Electrification Bill that will help us to ensure that we do not leave parts of the country behind. Today, we talk of internet and all these types of things, but we only hear of them in the major urban centres. I want to challenge the Government that this is an area where they need to pay urgent attention. Just to remind them, President Clinton actually won on the platform of promoting internet in the schools

by a certain year. I think the future policies will definitely be cyber-based. I, therefore, would want to appeal that the rural areas, where the majority of our population is, are not left out.

Finally, I would want to say, especially to our bureaucrats, if I may use that term, that there is no way we can stop this technology. Elsewhere, they have tried to stop it but they have failed. One American President once said that he never foresaw the radio having any commercial value. That was in 1894. But, of course, today we know more than anybody else that there is nothing as profitable as the information sector. By the same token, while we still have the doubting Thomases about the cyber world, it is bound to be the reality and there is no way we can stop it. Trying to stop it is like standing in the way of a moving Kenya Bus; it ends up crushing you. We have no option but to support it. I call upon my colleagues to be part of that revolution to make sure we make it happen.

With those few remarks, I beg to support.

[Mr. Deputy Speaker left the Chair]

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

Mr. Maitha: Ahsante, Bw. Naibu Spika wa Muda, kwa kunipa nafasi hii ili nami nichangie Mswada huu kuhusu mambo ya simu. Ningependa kuunga mkono Mswada huu, nikilalamika kwamba Shirika la Posta na Simu limepata aibu mara nyingi, kwa sababu ya mambo mengi ambayo hayatiliwi maanani. Wizi wa nyaya za simu umekuwa ni tatizo kubwa hasa kule Mombasa. Mimi natoka sehemu ya Kisauni ambayo ina hoteli nyingi za kitalii. Wenye hoteli hizo wanategemea sana simu ili kuendeleza kazi zao vizuri. Lakini utakuta ya kwamba Shirika hili huweka laini za simu kwenye hoteli hizo, na baada ya mwezi mmoja, unaambiwa kwamba nyaya zote za simu zimebiwa. Polisi wanaitwa kufanya uchunguzi na wanapata kwamba ni wafanyakazi wale wale wa posta ndio wanashirikiana na wezi hao. Ikiwa tunataka kufaulu, lazima tuige teknolojia za wenzetu. Kwa wakati huu, teknolojia ya kuweka nyaya za simu juu ya miti imetuletea matatizo mengi kutokana na wizi wa nyaya hizo. Wahandisi wa kuweka simu wanajua maana ya copper na inauzwa wapi. Wanashirikiana na wezi hao, au hata wao wenyewe wanaiba nyaya hizo za simu na kufanya wateja ambao wanalipa pesa kukasirika kabisa.

Kule Mombasa, watu wamelia sasa mara mbili au tatu. Kuna wakati ambapo Mombasa Kaskazini ilikaa karibu miezi minne bila simu, kwa sababu ya wizi wa nyaya za simu. Pia, ukienda kwa wakubwa ambao wanahusika, unaambiwa kanda zile zimeagizwa kutoka Ulaya na ni lazima zingojewe. Inaudhi kwa sababu teknolojia ya kuweka nyaya hizo juu ya miti haisaidii. Sasa, zinachimbiwa na kupitishwa chini kwa mitaro. Lakini mitaro hiyo pia haijasaidia chochote. Unakuja waya mmoja mkubwa wenye nyaya nyingi ambazo zinawekwa ndani ya mtaro. Lakini baada ya mwezi mmoja, ule waya mkubwa unavutwa kutoka chini na unachomolewa copper yote. Kwa hivyo, nyaya zinabwa tena. Sasa, nyaya zinazowekwa kwenye milingoti hazifai. Zinazowekwa kwenye mitaro pia hazifai. Ndio nasema ikiwa tunataka kuwapendeza wateja wa simu, lazima tupate teknolojia za wenzetu ambazo hazitumii nyaya tunazotumia.

Pia, unakuta ya kwamba, uzembe wa wafanyakazi umewafanya wateja kutokuwa na imani nao. Mara nyingi unakuta mtu anaomba simu na anapewa jawabu kwamba amepewa nambari na alipe. Analipa pesa na baada ya kulipa, anakaa tena miezi miwili akingojea kuwekwa simu. Kila anapouliza ni kwa nini hawekewi simu, anaambiwa waya wa simu yake uko Nairobi na lazima angojee. Anakaa tena miezi mitatu akingojea simu na hali pesa zake amelipa na zinapata faida katika Shirika hili. Akishapata simu, inaharibika kila wakati. Inakuwa sawa kwa wiki moja na kuharibika katika wiki ya pili. Ikifika mwisho wa mwezi, anapata bili kubwa na hajui ni nani aliyepiga simu hiyo. Hata akienda kulalamika, atakuta watu wenye Kiswahili kingi na mteja haelewi chochote kuhusu vile bili yake imekuwa kubwa, na simu yake haikufanya kazi. Tunaomba Shirika la Posta na Simu litie imani katika wateja wake. Simu ni chombo kinachotegemewa katika dunia nzima. Wakati mtu anapofanya biashara yake akitumia simu, inaendelea kwa haraka haraka. Ikiwa simu hazina wasimamizi wazuri, Serikali italaumiwa kwamba haina mpango mzuri wa simu.

Kitu kingine ambacho kinawachukiza sana wateja, hasa kule Mombasa, ni kwamba kuna watu ambao wana ndugu au marafiki zao nje ya nchi hii. Lakini kuna wengine ambao hawana mtu kule Ulaya. Unapata kwamba bili yako ya simu inaonyesha umepiga simu kule Ulaya na hali hujapiga simu huko, na hakuna mtu unayemjua kule. Ukienda kwenye kituo cha posta na kusema hujui mtu huko, unaambiwa ulipe. Ukichunguza sana, ni wahandisi wale wale wa simu ndio wanaotoa simu yako na kumwekea mtu mwingine kupiga kule Ulaya kama anavyotaka, na wewe unapatiwa bili. Kuna wakati mwingine ambapo wahandisi wa simu wanakuja kwako na wanakwambia, "Mzee, ukituangalia vizuri, bili yako tutaipeleka kwa mtu mwingine". Matatizo mengi ambayo yanalikumba shirika hili ni kule kutolewa kazi yake. Ni muhimu kutatua matatizo ya simu katika nchi

yetu.

Wakati mwingine unakuta kwamba simu inapopigwa nyumbani kwako, ama wewe unapopiga, bili inapokuja, hata wewe ukijiandikia mwenyewe ili kujua umepiga simu ngapi kwa mwezi, itakuwa zaidi kabisa. Hata ukilalamika, utaambiwa, "Mzee, wewe ulipiga simu", hata kama una ushahidi wa simuulizopiga. Hii ni kuonyesha kwamba, hata ingawaje kuna mitambo ya kompyuta ambayo inaonyesha bili za watu, wahandisi wa posta wanafanya mita yako isome vile wanavyotaka. Kwa hivyo, nataka kusema kwamba watu wa Mombasa wana matatizo mengi sana ya simu. Watu wanaletewa bili za simu ambazo si zao. Watu wanalalamika na hakuna kinachotokea. Wengine hata wameenda mpaka kortini, na hakuna chochote kinachofaulu. Ukifika kortini, unaambiwa utalipa bili uliyopewa kwa sababu maofisa wa posta ndio wanajua ulipiga simu ngapi. Ningependekeza bili ya simu iwe kama ya stima. Mita ya stima inawekwa kwenye nyumba. Unaweza kusoma mita yako mwenyewe. Lakini wanaficha mita ya simu huko, na wanaisoma peke yao. Mambo kama hayo ndiyo yanayolifanya shirika hili kukosa imani ya wateja.

Kuhusu teknolojia nyingine ambazo zinakuja, ni vizuri kama zingeigwa hapa kwetu. Teknolojia yetu imekumbwa na matatizo mengi na imekuwa dhaifu na duni. Haitimizi mahitaji ya watu ambao wanataka huduma ya simu.

Bw. Naibu Spika wa Muda, kuna wale wanaotumia simu, kwa mfano zile za kubeba kwa mkono ambazo zinaitwa mobile telephones. Unapokwenda kutafuta simu kama hiyo unaambiwa kwamba ziko lakini ni lazima utoe hongo kiasi cha laki moja ili upate laini. Kwa nini ulazimishwe kuhonga ili upate mobile telephone? Hiyo ni huduma ambayo ni lazima itolewe kwa wale wateja ambao wametimiza masharti ambayo yamewekwa katika fomu za maombi. Inaonekana ya kwamba uzembe na ulaji rushwa wa maofisa ambao wanahusika katika kutoa leseni za hizi simu unaliletea hasara shirika hili. Jambo hilo linalifanya Shirika la Posta na Simu lipoteze imani ya wateja. Mtu analipa pesa ili apate huduma lakini inakuwa vigumu sana kupata huduma hizo.

Kuhusu kuuzwa kwa mashirika ya umma, Kenya wakati huu, ingawa inaitikia mwito wa kuuza mashirika, lakini sisi kama viongozi ama Wabunge, kila mtu kule anakotoka anataka watu wake wanufaike. Serikali inataka kuuza sehemu ya Bandari ya Mombasa. Lakini utaona kwamba viongozi wa sehemu hiyo hawahusishwi kamwe. Ikiwa ni lazima Shirika la Posta na Simu liuzwe, Serikali ni lazima itafute njia---

The Assistant Minister for Transport and Communications (Mr. Obure): On a point of order, Mr. Temporary Deputy Speaker, Sir. The hon. Member on the Floor has made some very general and very damaging statements, and alleged about bribery in allocating mobile telephone services. Is he in order to make those statements or does he have any specific evidence to that effect?

Mr. Maitha: Bw. Naibu Spika wa Muda, inajulikana wazi katika Shirika la Posta na Simu--- Hata ukitaka kuwekwa simu yako nyumbani ni lazima uhonge ili upate huduma haraka. Kwa hivyo, hilo si jambo la kuthibitisha. Ni kitu ambacho unaweza kuwauliza wananchi wote wa Kenya na watasema ni kweli. Hata kama Waziri Msaidizi akitaka kuthibitisha saa hii, aende Post Office, aombe apewe mobile telephone. Ingawaje yeye ni Waziri Msaidizi, ataambiwa, "Ikiwa unataka kupata simu haraka, toa kitu kidogo". Hicho si kitu cha ajabu katika Kenya hii.

Nilikuwa bado ninasema kwamba uuzaji wa mashirika---

The Assistant Minister for Transport and Communications (Mr. Obure): Mr. Temporary Deputy Speaker, Sir, are those general statements acceptable really? I asked him to substantiate, but on the contrary---

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

The Temporary Deputy Speaker (Mr. Musila): He is on a point of order!

Mr. Mwenje: He did not even mention that he was on a point of order!

The Assistant Minister for Transport and Communications (Mr. Obure): Mr. Temporary Deputy Speaker, Sir, I stood on a point of order, which the Chair accepted. I am asking if it is in order for the hon. Member to continue making allegations which he cannot substantiate.

Mr. Maitha: Bw. Naibu Spika wa Muda, mimi mwenyewe nina ushahidi. Nimeomba kupewa mobile telephone, na huu ni mwaka wa pili, lakini sijapata na nimekwenda nikaambiwa kwamba nikitaka kupata haraka, nitoe Kshs100,000 ili nipate haraka. Kwa hivyo, akitaka nithibitisha, nitamletea fomu yangu wiki ijayo, na ningependa aulize ni kwa nini kwa miaka miwili tangu nitume fomu ya maombi sijapata mobile telephone.

Kuhusu kuuzwa kwa mashirika ya Serikali, ningependa ile mikoa ambako mashirika yale yapo, wananchi wa sehemu zile wahusishwe katika kuyanunua. Hii ni kwa sababu hata sisi katika mikoa yetu, tuna watu wa biashara ambao wakihusishwa ni rahisi sisi kuwapata. Kwa mfano, iwapo Serikali itaamua kuliuzwa Shirika la Posta na Simu, ingefaa itufahamisha hata sisi watu wa kule Mombasa, ili tuweze kununua hisa katika shirika hilo.

Lakini imekuwa ni balaa tu kuona kwamba Serikali inatangaza kuuzwa kwa mashirika haya na wanaoyanunua wanayanunua kutoka Nairobi, na wakifilisika, yanafilisika pia.

Bw. Naibu Spika wa Muda, kwa mfano kule kwetu makampuni mengi yamenunuliwa lakini sasa yamefilisika. Kwa mfano, Kenya Cashewnuts ni shirika ambalo liliuzwa na likanunuliwa na watu wa hapa Nairobi. Sasa limefilisika na mitambo ile ya Kenya Cashewnuts sasa inaondolewa na kupelekwa [Mr. Maitha] Tanzania. Kama wenyeji wa kule wangehusishwa hata kama wangefilisika, lakini tungetafuta matajiri wengine ambao wangelinunua shirika hilo. Kuna mashirika mengine ambayo yanunuliwa na watu na wakitaka kuyaacha, wanayaacha. Kwa hivyo, ombi langu ni kwamba mashirika yanapouzwa--- Watu wa zile sehemu ambazo mashirika haya yanauzwa, Serikali yafaa iwapatie nafasi watu wa sehemu zile wanunue hisa ili nao wafaidike.

Kwa sababu ni sheria ya Serikali kwamba inapouza mashirika, kila mtu anatakiwa atoe mapendezo yake, si dhambi kama itasema kwamba watu wa Mkoa wa Bonde la Ufa wapatiwe fursa ya kununua Shirika la Simu kama linauzwa. Hata huko Pwani na pia Ukambani, kama kuna watu ambao wana uwezo wa kibiashara, yafaa wapewe nafasi. Hata huko Kisii, akina mhe. Obure wanaweza kununua mashirika haya, na wakawawekea watu wao simu kule kule, ile tatizo la simu likitokea, mtu awe anaweza kumpata mwenye kampuni ile na kumwambia, "Unatoa huduma ambazo ni duni, na tutagomea kampuni yako." Lakini hatuwezi kusema kwamba kampuni iko Nairobi na mwenyewe hatumjui na hata ikiwa imewakosea watu kule Mombasa, hatujui tutampata nani.

Bw. Naibu Spika wa Muda, kwa hayo machache, naomba kuunga mkono.

The Assistant Minister for Local Authorities (Mr. Mwakalu): Thank you, Mr. Temporary Deputy Speaker, Sir. I rise to address myself to one and only one item of the whole debate, and that has to do with liberalisation as a policy, and privatisation of public utilities as an operational wing of the same policy.

Mr. Temporary Deputy Speaker, Sir, we should recall that on the advent of Independence, this country needed indigenisation of the Public Service. We then called it "Africanisation" and in terms of its practice, Africanisation did not take into account how equitable the distribution of those jobs in the Civil Service would be looked into. Operationally, Africanisation, or Kenyanisation, became ethnicised to such an extent that certain areas of this country benefited a great deal more in the beginning of Kenyanisation and a lot of Kenyans from specified regions of this country, therefore, had a head start. They went into Kenyanisation in the name of an ethnic policy which was not promoted publicly, but in practice was seen to be the case. I am very worried and concerned about liberalisation. This concept of liberalisation is not sacrosanct and must be put to the acid test.

Mr. Temporary Deputy Speaker, Sir, when you liberalize in the name of liberalization, in practice, you end up privatizing each and every corporation, even that which is producing benefits for this country. For example, you go ahead and privatise the Kenya Ports Authority, and yet, despite some mismanagement problems here and there, it still has some benefits accruing from it. It is a corporation that brings in revenue. You go and privatise the Kenya Posts and Telecommunications Corporation which brings in a lot of revenue within a very short time, but only needs proper management to benefit this country. In the process of privatising it, as has been the case with the Kenya Cashewnuts, you actually go ahead, very lopsidedly, and give this corporation to those who are politically well-connected, and you overlook entirely, the indigenous aspect of this privatization.

Mr. Temporary Deputy Speaker, Sir, if we were to privatise Mumias Sugar Company in Western Kenya and then ended up getting persons well connected from Kinango in Kwale District as the new owners, the politics of that practice are dangerous. This is because what has been proved in practice is that, the new management will begin to employ its own people. In doing so, the problem of nepotism, preferential treatment, sponsored mobility and favouritism crops up. For example, a hotel which has been privatised in Diani ends up with a new management from a different part of the country, who only employ cooks and sweepers from their ethnic communities. When the indigenous Diani boy and girl cannot find a job in that hotel, the politics of it becomes bitter; that the locals have been overlooked and the upcountry people favoured. A whole privatization takes place.

Mr. Temporary Deputy Speaker, Sir, it so happens that the conglomerate to be privatised is so large and there are no local Kenyans for it. But at the behest of the International Monetary Fund and World Bank, you then go ahead and privatise anything and then, only foreigners come to own that commanding height of the national economy. The private interests all over the world have never been known to be kind to local issues and problems. All that they pay attention to is how much of the Dollar, the Yen and the Franc they can carry back home as dividends for their shareholding. When the whole commanding height of the economy is in the hands of foreigners, they also tilt their policies and the scenario of compromise and corporate interests links up with the well connected in the domestic scene, politically. When that happens, the interests of the indigenous people of that country have no local standing in how the weight of the economy hurts them.

Mr. Temporary Deputy Speaker, Sir, in the name of the dollar and profits, foreign interests and companies are not interested to invest in areas where the indigenous people are suffering from kwashiorkor. So, this leaves us to this: When, and if, we must privatise in the name of liberalization, we should look for Kenyans who are able or nearly able to buy those interests on clearly stipulated criteria. Within that framework, we must

also pay attention to the local angle. For example, do the people of Kisumu have resources at all to buy a share or part of the Kisumu Molasses Factory? If they do, they should be incorporated into that liberalization, and privatization nexus. That is how you are going to produce the kind of politics at the local level, which measures up to the national policy, whose application is to render efficiency and etiquette in management and, therefore, producing more resources for the national economy, for which are now able to render services to the Republic and the public of this country.

Mr. Temporary Deputy Speaker, Sir, I am only making those cautionary remarks, so that we do not just liberalize or privatize blindly, and in the end, we do not take into account even the indigenous and local interests in harnessing the resources at the local level, like cashewnuts, coconut and bixa, to benefit the people on the ground. At the end of the day, let us have an economic policy of liberalization and privatization that takes into account, as well, what the politics of today and tomorrow will provide for the benefit of the whole socio-economic and political take-up for which we want to build a culture that this country at the end of the day will have an economic personality that is Kenyan and politics that is Kenyan based. The benefits of that politics and economics at the end of the day, should sustain this country in a continuous political, economic and social culture that Kenyans can one day say; we are the Republic. This will enable the people of this country to manage and run their own affairs. Only when we are able to look for and find local resources, is when we can benefit from borrowing which has been the experience of other countries. But let us not be slaves of our own politics.

I would like to support this Bill.

Mr. Mwenje: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to also say a few words about this Bill, which is asking us to form a commission. We hope it will not be like the other commissions which we have had before that have not been efficient, but instead, have been known for corrupt practices and inability to serve our people.

Mr. Temporary Deputy Speaker, Sir, first of all, while I agree with the composition of the Commission, it should not look like it is another arm of Government. We should also incorporate the common mwananchi in this Board. Unfortunately, all the other commissions that we have formed before end up operating like Government departments. I hope, when the Minister appoints those people, he will consider the ordinary mwananchi who is most affected. Our people should be allowed to serve themselves. That is the essence of democracy and that is when our people will gain confidence in the Board.

Mr. Temporary Deputy Speaker, Sir, when we talk of radio communication which has been referred to here, I do not know the number of Kenyans of African origin who use this radio communication. They are mainly being used by Asians in construction firms and sometimes even on roads. There should be some kind of control on who is licensed to use radio communication systems because, sometimes, they are risky and a nuisance, especially when the communication is very loud. In future we should take into account the kind of people we are licensing. Sometimes I do not like the way Asians behave with radio calls. I do not know how we can control this menace. This commission should look into this matter, so that they are able to know the character of the people being licensed. There should be some code of conduct for those people being licensed. They should not be used for misbehaviour.

Mr. Temporary Deputy Speaker, Sir, we have been having the Kenya Posts and Telecommunications Corporation which has been revolving all along with its monopoly and now, we are forming this Commission. But what worries me in this Corporation is the magnitude of theft that has been done to its resources. It is so alarming that I do not know of any other parastatal that can be compared to it. Many parastatals in this country have collapsed. It is only fortunate that the KPTC has not collapsed. It would have collapsed a long time ago, had it not been for its large revenue base.

Mr. Temporary Deputy Speaker, Sir, if you look at the Corporation's balance sheet, of which I have a copy, you will be surprised at the magnitude of stealing reflected in it; you cannot believe it. Here is a case where one does not mind taking away vehicles and money belonging to the Corporation. One person took away a Mercedes Benz car worth Kshs6 million and registered it jointly under his name and that of the Corporation. Eventually, he fleeced the Corporation of that car.

Mr. Muite: On a point of order Mr. Deputy Speaker, Sir. Is it in order for hon. Mwenje to make that general statement and, therefore, implicate many innocent employees of the Corporation? This is because, if we leave the matter hanging there, then every employee of the KPTC is implicated. If he knows of a particular individual who has got a name, who took away a Mercedes Benz car worth Kshs6 million, should he not exclude the other employees by naming that particular individual?

Mr. Mwenje: Mr. Temporary Deputy Speaker, Sir, I do not want to malign a particular individual but I can name him.

An hon. Member: Read it out!

Mr. Mwenje: The balance sheet, clearly, says that it is the Chief Executive. The person I am referring to was the Corporation's Chief Executive in 1995. You do not have to tell me to table it because every hon. Member has a copy of this booklet.

An hon. What is his name?

Mr. Mwenje: Unfortunately, the balance sheet does not give the name of the individual person. But whoever---

The Temporary Deputy Speaker (Mr. Musila): Order! Order, Mr. Mwenje! My information is that, the Report you are referring to has been referred to the Public Investment Committee (PIC). Therefore, I do not think we should go ahead and debate it at this moment.

Mr. Mwenje: Mr. Temporary Deputy Speaker, Sir, wherever it is referred to, a copy of the Report has been given to me so that I can read its contents. Copies of this Report are in the pigeon holes of all hon. Members. Whether it is going to the PIC or to Heaven, we have copies of it, and we can make reference to it because we have already gone through it.

The Temporary Deputy Speaker (Mr. Musila): You have said that it was the Chief Executive in 1995. So, let us stop there and continue.

Mr. Mwenje: That is why I said that, it was the Chief Executive. That is why I am saying that these things are there. This Report elaborates the magnitude of the theft that has been executed in that Corporation.

Mr. Michuki: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order that the issue should end there? For example, I was at one time the Chief Executive of the Kenya Commercial Bank. There has been quite a number of Chief Executives who have gone through there. If this matter is ends that way, it will mean that even those who have been Chief Executives and who are innocent, will be suspiciously looked upon. Therefore, is it not in order for me to require that hon. Mwenje, actually, names the person? This is because that is what the rules of this House require.

The Temporary Deputy Speaker (Mr. Musila): I believe, if what Mr. Mwenje is referring to has no name--- The Report, specifically, says that it is the Chief Executive in 1995. That should be sufficient. This is because, if we take your example, you were a Chief Executive of the KCB at a particular period of time. So, Mr. Mwenje, proceed!

Mr. Muite: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it not in order for you, as the one in the Chair of this House, to ask the hon. Kipng'eno arap Ngeny whether he has anything to say? This is because he was Chief Executive in 1995.

The Temporary Deputy Speaker (Mr. Musila): Order! Order, Mr. Muite! No! Continue, Mr. Mwenje!

Mr. Mwenje: Mr. Temporary Deputy Speaker, Sir, somebody asked me which page contains this particular information and I just want to say that it is on page four of the Report. Therefore, are we now forming a commission which will be honest or one which will allow the same kind of things that have been happening in the KPTC to continue? I hope and pray that our people have by now seen the dangers we are landing into by stealing public funds. I hope that the Commission to be formed will allow--- I am glad now that we have a very competent Minister in this particular Ministry, who, I agree, is serious. The kind of people he will appoint will look into these things. But the danger is that, once appointed, he might not have control over them. This is because, equally surprising, two pieces of land located in Karen, valued at Kshs744 million, were also purported to have been bought but were never transferred to this Corporation. The money ended up in somebody's pockets. This land has, to-date, never been transferred to the Corporation and yet, the money was paid to an individual. So, when we talk of forming commissions; when we talk of asking people to perform their duties effectively; when we appoint a commission like that one we are about to allow the Minister to appoint; then, we must appoint people of high integrity who are honest and, therefore, they will not go there to squander public funds. That is the essence of the whole debate; that, when they scrutinise, those who will be allowed to operate the radio and television stations and those who will be licensed to provide telephone services; all of them should be men and women of integrity. This is because the impression created by the KPTC--- They are not even able to complete the construction of their own building in the City Centre because the Corporation's money was stolen by particular individuals. The suspects have never been taken to court. What guarantee will the Minister give, that when the Commission is appointed, its members will not steal public funds? Are we assured of this? I hope that when the Minister replies to Members' contributions to this Bill, he will tell us what methodology he will use to ensure that the members of the Commission will be men and women of integrity who will not steal public funds as it happened with the KPTC. It is the most corrupt institution in this country; it has always been, despite the fact that these misdeeds have been substantiated in all of their Reports.

Mr. Temporary Deputy Speaker, Sir, I would like to ask the hon. Members of this House to make sure

that these people face the law of this land, the time that it will take for this to be realised, notwithstanding. This is the reason why we have failed to raise enough money to pay the teachers' salaries and those of the civil servants. It is not that we do not have the money; we had it but it was stolen by particular individuals, who, finally, got away with it. In fact, some of them ended up becoming Members of this august House.

Mr. Temporary Deputy Speaker, Sir, this is dangerous and I hope that the Minister will take care of that situation by appointing people who will run that Commission properly. Equally, I would like to appeal to Kenyans to stop vandalising telephone cables. It is unfortunate that we have some people who have formed the habit of vandalising those wires with an intention of either getting copper or any other materials. This is a primitive habit which must stop and we must ask our people to stop it. Sometimes the Corporation has tried to put underground cables to protect them from being vandalised, but why should that happen? Why should it cost Kenyans more, just because a few people want to vandalise telephone wires? I have seen in some towns, particularly in Naivasha, where a lot of telephone wires are used as drying lines for clothes. Those wires belong to the Corporation and we should ban the use of those wires for any other purpose except for telephone services. If we continue vandalising the wires, it will cost the Corporation more for what, otherwise, would have been cheap even for our people. We hope that the cost of repairing those vandalised cables is not passed over to the consumers.

I would also like to agree with one hon. Member who said that we can no longer trust the bills that we receive from the Corporation. Sometimes their bills are inflated to the tune of Kshs300,000 and Kshs400,000. I do not know of any individual who can use telephone services worth that much. The reason why we are getting those inflated bills is because certain people are using other people's lines, particularly those with the equipment from the Kenya Posts and Telecommunications Corporation. They stop anywhere on the road where there are telephone cables and make calls. They can even make international calls from there and bill innocent people. A way should be found of solving that problem or even finding out who the callers are, and at what point the calls were made. We need equipment which can tell us when the calls were made and at what point they were made. If they are able to know that a call was made from my line, then they should also be able to know that the call was made from a particular point. Consumers are forced to pay bills which have either been incurred by officers from the Kenya Posts and Telecommunications Corporation or even by some other people.

Mr. Temporary Deputy Speaker, Sir, we are set to liberalise telephone services, and it is high time we allowed liberalisation of those services, but we must be very, very sincere to ourselves on how we do it. Although I intend to support that aspect of liberalisation, I have a lot of reservations in particular areas. Although, we are leaving the public licensee as the Postal Company which is going to be formed immediately after this Bill goes through, we are not guaranteed that it will offer those services adequately. I fear that when we come to the issue of licences, and this is where the Commission must be very careful, most of the companies will apply for licences to run telephone and radio services. I do not know what action the Minister will take to protect those consumers who communicate through letters because, immediately this Bill is passed, the cost of sending a letter will go up. Not many companies will apply for licences to operate companies that can deliver letters.

So, this Commission we are going to form today must, therefore, have some kind of control, and they should not license every applicant. If more companies will be licensed to operate telephone and radio services, the common man will be forced to pay more for posting letters than what the Post Office has been charging. If that happens, it is my hope that the company which will be left as a public company will be given the job of handling letters to avoid the cost of sending letters going up.

Mr. Temporary Deputy Speaker, Sir, I do not intend to say a lot, but we need to state categorically that telephone services have not been satisfactory. One hon. Member talked about the mobile telephones. If you cross to Uganda, it costs Kshs30,000, but in Kenya it costs Kshs200,000. In Uganda, even a hawker or a matatu driver can afford a mobile telephone. Here in Kenya, just because particular individuals decided to privatise mobile telephone services illegally, their cost went up. I have seen two or three mobile telephones in this House. Even hon. Members cannot afford mobile telephones, although they would want to have them. There is not even a provision for them. I have been told that mobile telephones are going for Kshs9,000 in Tanzania but in Kenya, even the Minister for Transport and Communications cannot afford one. It is very expensive - Kshs200,000. Why does that happen? This is all because of corruption. Somebody decided to privatise mobile telephone services. I bought mine many years ago at Kshs200,000, but I came to realise that it should have been much cheaper, if it were not for certain corrupt individuals.

Mr. Temporary Deputy Speaker, Sir, I am a very worried man because all our State Corporations are on the verge of collapse. We fear that when these companies will be sharing their assets, a lot of properties might be disposed of or change hands. Who will supervise the transfer of property from one company to the other? This is where corruption will come in. Unless we go back to the drawing board and find out why this is happening, because we have been talking about it, and we will not stop talking about it, we will not get far. It does not matter

how much pressure will be used to intimidate us to stop talking about corruption in our parastatals; we will never stop until Jesus comes back. Corruption has affected the capita per income of our country, and this is done by a number of people. They are not more 100. We have been mentioning them, but they appear to be above the law; nobody will touch them. My only prayer is that we should not form another Commission to create another chance for those persons who have been looting those corporations to loot them again.

Mr. Temporary Deputy Speaker, Sir, I know we are all Kenyans, but sometimes we have to say the truth. I do not understand what type of a coincidence this is, where a former managing director comes from a particular ethnic group and his successor also comes from the same ethnic group. Well, it maybe a genuine coincidence, although I do not know whether it is really a coincidence---

The Assistant Minister, Office of the President (Mr. Angwenyi): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member for Embakasi in order to mislead this House that the Kenya Posts and telecommunications Corporation is the only corporation where a managing director who has retired is succeeded by another one from the same tribe?

Mr. Mwenje: Mr. Temporary Deputy Speaker, Sir, I did not say it is the only one; there are many others. For instance, we have the Kenya Airports Authority, the Central Bank of Kenya, and so on. I can mention very many corporations which have been run like that, and that is why they are not doing well. Those managers are incompetent because they know that they are not there because they are competent, but because of patronage.

The Assistant Minister for Research and Technology (Mr. Ombasa): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member on the Floor in order to allege that a particular tribe is managing State corporations in the rank of managing director without specifying which tribe? Which period is he referring to; is it the current one or the period from Independence?

Mr. Mwenje: Mr. Temporary Deputy Speaker, Sir, unfortunately, it affects every period, because the former one was doing the same, and the current one is---

The Temporary Deputy Speaker (Mr. Musila): Order, Mr. Mwenje! I want to remind you that we are debating the Kenya Communications Bill.

Mr. Mwenje: Mr. Temporary Deputy Speaker, Sir, we are debating the Kenya Communications Bill and I am saying that those persons who are going to be appointed to that Commission must reflect a national outlook.

That is the relationship between this Bill and the current position. I hope that when the Minister, who was previously referred to as "Saul" - we have now realised that he is really "Saul" because he does not entertain jokes - will certainly appoint people to the Commission from every tribe in this country. When that Commission is appointed, we hope that services will be even better.

Mr. Temporary Deputy Speaker, Sir, when that happens, we hope that the services will be better. When they are licensed---

Mr. I.K. Ruto: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the hon. Member to talk about appointing members of certain tribes to be managing directors? We do not know what he is talking about. Could he be specific?

Mr. Mwenje: Mr. Temporary Deputy Speaker, Sir, I was specific and if he does not know, I will tell him who was there before, what tribe he belongs to and who is there now and what tribe he belongs to.

The Temporary Deputy Speaker (Mr. Musila): Mr. Mwenje, please, substantiate.

Mr. I.K. Ruto: On a point of order, Mr. Temporary Deputy Speaker, Sir. The hon. Member is talking about professionals and not tribes. I do not know what this hon. Member is up to.

Mr. Mwenje: Mr. Temporary Deputy Speaker, Sir, of course, you know that we do not substantiate the obvious. He should know this. What I was, therefore, saying is that those who will be given licences should not offer telecommunication services just because that area has money. They should extend these telecommunications services. I hear the machinery is dangerous to people's ears. This should also be checked by our experts. They should tell us. In fact, we are told that if you use a mobile telephone for 10 years, you might as well lose your sense of hearing or you might even contract cancer. We would like to know whether that is true. This Commission should be charged with the responsibility of checking the megawatts, or whatever they are called - that is the amount of electricity that is used and if it can destroy human beings, then it is serious. This is because when the common man goes to make a call, he does not know the magnitude of that force. So, they need to be told about this and there is the need to regularise, not only the licensing aspect, but also the kind of machinery which is being used. We need to be told that.

Mr. Temporary Deputy Speaker, Sir, Nairobi is one of the areas that has been hit a lot by telephone problems. This is because sometimes you want to make a call to a particular place and you hear somebody else talking on the same line. This machinery needs to be looked into. We have been having a lot of problems such that

we cannot even communicate because other people are listening. In fact, one is no longer sure that when one is making a call, somebody else is not listening. The public needs to be given a guarantee that this is not happening. The technology should not allow that kind of situation to arise.

Mr. Temporary Deputy Speaker, Sir, finally, without going far, not everybody can afford to have a telephone in his own office. However, when a public telephone is out of order, sometimes it can stay even for years without being repaired.

The Temporary Deputy Speaker (Mr. Musila): Mr. Mwenje, your time is up.

Mr. Raila: Thank you very much, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to contribute to what I consider to be a very important Bill. This Bill is very important because among other things, it is dealing with one of the most important natural resource in the whole country and that is the national frequencies. National frequencies are a very, very important resource. In the United States, it is worth 13 billion dollars per annum. Its importance, therefore, cannot be overstepped. We are also dealing with communication which is part of information technology and we all know that information itself is power. So, because of those two reasons, this Bill is very important.

Mr. Temporary Deputy Speaker, Sir, at the outset, let me say that I support this Bill in principle, but I think that if this Bill is amended, it can provide a very good basis for improvement of communication in our country. However, let me make a few preliminary remarks. I listened with a lot of interest when my friend, the hon. Member for Bahari, was speaking; when he was talking about the commanding heights of the economy. I and my friend, the Member of Parliament for Bahari, come from the old school and it was traditional in the old days to believe that there are certain services that are provided through public management. These facilities have gone on for a very long time, and for a long time the argument was that we need to control the commanding heights of our economy so that our people have a say. However, public ownership of the major means of production has failed to provide the required services and the required results, and that is the reason why all over the world, the current right now is towards liberalisation of public-owned services.

Mr. Temporary Deputy Speaker, Sir, we have been talking about wealth creation. It has been established beyond reasonable doubt that public ownership lacks the necessary incentives to make those institutions efficient. That is the reason why we talk about liberalisation. But when we are talking about liberalisation and privatisation, we are not talking about personalisation. One of the problems that we have in this country is that to some people, privatisation is synonymous with personalisation. We as a people need to recognise that there is need for us to liberalise certain services in order to make them more efficient for better provision of services.

Mr. Temporary Deputy Speaker, Sir, we have to do it out of conviction and not because some international donor agencies want us to do it. We should not do it because we want the World Bank and the IMF to give us money. We should do it because we think that it is right to do so. When we read this Bill, one gets the impression that this Bill has been drafted for the sole purpose of trying to convince the international donor community that we have liberalised. I am saying so because of certain provisions in this Bill. This Bill should not have been brought before this House before the Government Policy Statement on Telecommunications was publicly debated.

The Government issued a Postal and Communications Sector Policy Statement in January last year. That statement contains certain provisions which will render this Bill completely meaningless even if it is passed by this House. The policy objectives and targets are to optimise the contribution of the Communications Sector in Kenya's economic development. In that policy statement, the Government has stated as follows:

"That they want to improve service penetration in rural areas from 0.16 lines to one line per 100 people by the year 2015. Secondly, they want to increase in the urban areas from four lines to twenty lines per 100 people by the year 2015."

This, of course, involves heavy investments. This means that, it would require the installation of 300,000 lines in rural areas and 2.4 million lines in urban areas at a total cost of US\$5.4 billion. This requires an investment of US\$270 million per annum. So, the Government has said that in doing this, they have come up with a strategy to restructure the Kenya Posts and Telecommunication Corporation. But what they are doing here is not new. We are not inventing the wheel. All over the African Continent, this is the trend. I came from South Africa last week and this is what is happening. It has been done in Tanzania and Uganda. So, why are we trying to invent the wheel? Why are we not going about it the right way? We are not going about it the right way because we are not keenly interested in properly liberalising the Posts and Telecommunication sector. We want to liberalise and retain control at the same time.

Mr. Temporary Deputy Speaker, Sir, what will happen is that we will liberalise and set up Telecoms Kenya Limited. We ought to automatically license a private operator to compete with Telecoms Kenya Limited. The Kenya posts and Telecommunications has enjoyed monopoly for all these years. Why can it not now compete

openly in the market? Why are we refusing competition? Why are we saying that we will have Telecoms Kenya Limited but we will not license people to operate a national network until the Telecoms Kenya Limited has floated certain shares in the Nairobi Stock Exchange? There is no time limit! The Bill does not say when Telecoms Kenya Limited will float those shares in the Nairobi Stock Exchange. That can last for 10 years. They will be under no obligation. No other operator is going to be licensed, according to the Government Policy Statement. So, I have a problem with the Government Policy Statement.

Mr. Temporary Deputy Speaker, Sir, let me now come to the Bill itself. In Clause 6 of the Bill which deals with the Board of Directors, we are making provisions for the President to appoint the Chairman of the Communications Commission of Kenya. But we have now reached a stage where we are saying that, we want to have transparency and accountability in the management of public affairs. Why can we not have a system of selecting certain individual Kenyans who are qualified and give the President three names from which to appoint?

Why can we not, in this time and era, subject the person who is going to manage such an important Commission to proper scrutiny? Mind you, this is the body that will regulate, control and manage our national frequencies. Why can we not ask him to come before a select Committee of Parliament and show us his credentials? We have highly qualified and competent Kenyans who can do that job. The criteria of appointing such an important person should be transparent. By so doing, we can talk of accountability and transparency in managing public affairs.

Mr. Temporary Deputy Speaker, Sir, about the other members of the Board of Directors, we have done the same thing. We have tried to flood this Board with Permanent Secretaries and yet, we are saying that we want to set up an independent Commission. Where is this Board going to derive its independence from, when 50 per cent of its membership is going to come from the bureaucracy? In this time and era, we must face the realities squarely. Let us not flood this Commission with members of the bureaucracy. There are other five persons who are supposed to be appointed by the Minister, by virtue of their knowledge or experience in matters relating to law, postal services, telecommunications, commerce or related consumer interests. We need to set up a proper criteria.

Who are those people? If those people are going to come from the private sector, let the private sector have the power to nominate them. The Government is already bringing in the Permanent Secretaries. Why should the Minister again have the powers to appoint those other people from the private sector? This Commission is going to deal with nobody else. Most of the time, it will be dealing with the applications coming from the private sector. The cardinal principle which states that; "no taxation without representation", should apply with equal weight in this particular case.

Mr. Temporary Deputy Speaker, Sir, part three of this Bill deals with the provision of licenses. This part has specified several offenses and has come up with penalties which are very punitive. In some cases, the penalties range from Kshs100,000, Kshs300,000 to Kshs1 million while in some other cases, it has specified three years or five years' imprisonment. All these have been done arbitrarily. Mr. Temporary Deputy Speaker, Sir, determination of other fines is left to the discretion of the Commission. This is going to scare away people who want to put up investment. Investment in telecommunications is very heavy. Somebody would want to be assured that, once he has put his money in that business, he is not going to wake up tomorrow and be told: "You have committed an offence; you are being jailed for three years and your licence has been cancelled". There is too much arbitrary power that has been given to this Commission. This will scare away businessmen. We are talking about attracting investment and foreign capital, but at the same time, we are taking it away by scaring away people who want to come here and invest. Parts III and IV of this Bill need to be properly looked into.

Part VII of this Bill - Miscellaneous Provisions - give the Minister the power to set up a national communications secretariat. These people already exist in the Ministry. They are the same people who have caused the inefficiency that we are talking about. They are the very same people whom we are giving power again. If we want to liberalise, let us, for God's sake, liberalise properly. Let us not give liberalisation with one hand and then take it away with the other hand.

Mr. Temporary Deputy Speaker, Sir, Clause 102 deals with the establishment of an Appeals Tribunal. It says under sub-clause (2):-

"The Chairman and other Members of the tribunal shall be appointed by the Minister in consultations with the Attorney-General and the provisions set out in the second schedule shall have effect in relation to the membership, proceedings and sittings of the Tribunal."

Mr. Temporary Deputy Speaker, Sir, why should the Minister, who has appointed the other members of the Commission, also appoint the Chairman of the tribunal to whom an aggrieved party is going to appeal? The Chairman should be appointed by the Chief Justice. Why should the Minister, in consultation with the Attorney-General, appoint the Chairman, when the Attorney-General is the one who will defend the Commission. So, the Chief Justice should appoint the Chairman of the tribunal.

With regard to the meetings of the tribunal, that has not been specified. Convening of the meetings of the tribunal has been left open. There is no provision here on how the tribunal can be moved to sit down and hear cases of appeal. In case of telecommunications business, things should move very fast, so that if I am aggrieved, I should be in a position to be heard as quickly as possible. This again is left open. It is left to discretion. There should be clear specification as to how whoever is aggrieved will approach the tribunal, and how it will be moved to sit and hear appeals. The same thing applies to the Commission itself because the Bill provides for "not less than four sittings in a year." I would have gone for monthly meetings of that Board. If that is not possible, the Board should have at least, one meeting every two months. In other words, it should hold not less than six meetings in a year, because we are going to deal with a very competitive industry. Technology is moving very fast and there are going to be very many Africans in this industry.

Mr. Temporary Deputy Speaker, Sir, the Government says that it is committed to universal provision of telecommunications services. But there is nowhere in this Bill where the Government states how it is going to achieve that objective of universal provision of telecommunications services. If it is going to be left entirely to the forces of the market, or the forces of supply and demand, then rural areas of this country are going to suffer. There ought to be a provision in this Bill to the effect that, whoever is licensed to operate a national network will be required mandatorily to allocate a certain amount, or percentage, of his resource for provision of telecommunications services to the rural areas. That is not mentioned here. I want to put it as a suggestion to the Minister.

Mr. Temporary Deputy Speaker, Sir, transitional provisions say that, all the licences that have already been issued by the KPTC shall be honoured. This is the reason why some people are quietly acquiring those licences. Once this Bill is passed, those licences will be valid. The provisions also say that the Board of Directors of the former corporation shall remain in office for the purpose of winding up the affairs of the former corporation.

The Bill does not say for how long the Board of directors will remain in office.

Part VII, says:-

"Every person who at the commencement of this Act is an employee of the former Corporation, not being under notice of dismissal or resignation, shall on the vesting day become an employee of the commission, the company or the corporation, as the case may be and may be respectively specified by the Minister on the same or improved terms and conditions of service."

Mr. Temporary Deputy Speaker, Sir, in fact, this obligates this new corporation to take over all the former employees of the KPTC including the deadwood. So, where is efficiency going to come from? We are basically inheriting the corporation the way it is, with all its problems. We are just basically transferring it to another bureaucracy. There is no provision as to how we are going to inject efficiency into the new management.

The very same people who have run the KPTC down are the same people the new management is going to inherit. So, the current Managing Director of the KPTC is going to be the Director-General. The chief executive of the corporation should be subjected to proper interviews and scrutiny by the Board of Directors. Let us move away from the tactics of arbitrary appointments and sacking of the same people. Let us first specify the qualifications we require. Let us advertise positions. If we do not have people to fill those positions, but I am sure we do have them, let us even advertise our positions abroad.

Mr. Temporary Deputy Speaker, Sir, this Corporation is going to be in telecommunications market places. It is going to compete with other telecommunications giant companies, but you cannot compete when you are transferring an inefficient bureaucratic management into this new Corporation. We want to take this country into the next millennium. Every time we talk about making Kenya a new industrialised country by the year 2020, there is a big yawning gap between statements and practice. There is nothing we are doing to propel this country to that stage. Everything else that we are doing is undermining our matching forward to that stage. This is one of those examples.

When we are talking about new industrialised countries, I think that Kenya cannot go the route of heavy engineering manufacturing. The time for industrial revolution is long gone. There is no reason why Kenya should try to invent that wheel. Kenya can move along the new lines of transforming this deficiency service economy. We can move along the route of an efficient service economy and if you want to do that, then, this Bill forms the basis of foundation for that movement. It will be the engine with which Kenya can be propelled to that stage that we are talking about, but in the present status, Mr. Minister, I can assure you that nothing will be achieved. We will end up being the same bureaucratic and inefficient management that we have been all this time. Nothing will change because in apology statements, we are still providing for protection. We are not even moving away. We have not liberalised the customer premises equipment sector. We are holding on to the national network and international connections and we are not even saying when we are going to do it. Then, why did we have to publish this Bill. Let us bring this Bill when this country is ready to liberalise. Let us do it the way Ugandans have done. You

license a competitor immediately; that is liberalisation. Let other people be able to connect. We are actually stunting the growth in this sector.

Mr. Mwenje was right with the examples that he gave. He said that an ordinary cellular mobile telephone costs over Kshs100,000 in this country. In Botswana, even a cleaner owns a mobile telephone. In Dar es Salaam, it costs Kshs8,000 to Kshs9,000. There is nothing special about it and if you are a businessman, you make huge amounts of money. Make the cellular mobile telephone cheaper and affordable. Let people buy it in those remote areas like Lamu where cable network is not developed. Let them get it in Mandera and let those village women in Busia have it; Ugandans have it on the other side of Busia, then, you will make money in big quantities. Our businessmen in this country are not shrewd; they want to make their money at the apex. They do not know that at the bottom of this pyramid, there is no money. That is also liberalisation. Make it affordable. This is the technology that is now available everywhere and nothing is special about it. The satellite route is the way forward.

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

The Minister for Water Resources (Mr. Ng'eny): Mr. Temporary Deputy Speaker, Sir, thank you for allowing me to contribute to this Bill. I would like to take this opportunity to congratulate the Minister for his foresight by bringing this Bill to this House. It covers one of the most important aspects of our lives now and in the future. I agree with some of the Members who have spoken before me particularly hon. Raila, in some aspects of his arguments. I also agree with Dr. Ochuodho in his exposition about this Bill. We, in developing world, if we can go back a little, first, we were called colonies when I was in school. Later, we were called backward countries.

When I was in the university, we were termed as developing countries and we are now given different names. The reality is that we are technologically backwards. I would like to take this opportunity to say that the Minister took a very bold step by bringing this Bill because only a few years ago, less than ten years ago, if you talked about liberalisation or privatisation, it was a taboo in Kenya. We are now in a different world and we have appreciated, as Kenyans and Government, that this is a new world. We have to move with everybody in the world. That is why this Telecommunications Bill is with us here.

Mr. Temporary Deputy Speaker, Sir, in the world today, there are three fields of human activities which matter and they are biotechnology, information technology and space technology. This Bill will make us participate effectively now and in future, in one of the aspects of a modern society; that is information technology for which telecommunications is just an aspect of it. I would like to agree with hon. Raila, particularly on frequencies. Frequency is something which we do not see but we can see the effects. It is a very valuable commodity. It is plenty in the air. You can tap it here and use it. It is owned by nations. In this country of ours, we have many satellites of various types. Since we lack technology, we have not managed to launch a satellite in our space in this country and yet, we are on the Equator. Doing this is the easiest thing for us in terms of technology and cost. We should launch a satellite in our space, so that we can use it in the telecommunications sector. So, this Bill is very important. The reason why we can not do what we want to do now, is because of poverty. We may want what others want too, but because of our level of development, we cannot afford it.

The telecommunications sector is recognised world wide as one of the most important movers of the economy of any country. We in Kenya, compared to many countries in Africa, have done very well indeed. The only problem is that, we are sometimes the greatest enemies of ourselves. This is because we have not managed to appreciate what our engineers, doctors and surgeons do. In fact, we have surgeons even in this House, who can perform open heart surgery. I am not an expert in the field of telecommunications, but I practised it. I would like to assure this House that Kenya was, and up to now, stands as one of the best in this sector in the African Continent. Whenever Kenyans participate in international fora, they are appreciated.

With the introduction of this Bill in this House, many things will happen in this sector. There will be many competitors in the telecommunications sector. There will be efficiency because more money will be available for it. The way the Kenya Posts and Telecommunications Corporation (KPTC) is now, it is difficult to effectively promote telecommunications. First and foremost, the institution subsidises heavily, postal services and then, aspects of telecommunications. Therefore, the Kenya Telecommunications Bill is timely and, as a country, we will support it. The Government has given a lot of thought to Kenyans. We may neglect history and fail to appreciate it, but the fact is that, today Kenyans can say that they own something in their own country. They may own a farm, factory or a business. This is because at Independence time, the Kenya Government deliberately encouraged Africans to run their own industries, businesses and farms.

I congratulate the Minister who has set aside some shares for posterity. He will allocate some shares to poor Kenyans, who are labourers, and have worked hard for so long. We should congratulate the Government and the Minister for that. This is because we must have a stake in whatever we are doing as Kenyans. I am sure that some of my friends on the other side of the House, are now well off because of that initial policy. This policy should apply for generations to come.

I would also like to support the Bill because the workers have been taken care of. We are now in a most difficult situation economically. If the institution can afford to pay and retain its workers, then there is no reason to do otherwise. There are already too many people in the streets, and we should not send more of them there. We should not add another problem if the institution can pay and retain. A strategic investor would decide how to handle the Telecoms Kenya Limited, when he gets there. But in my view, the policy of the Government, according to the Bill, is an excellent one. We have heard about what other countries have done. I would like to say that, there is no comparison whatsoever. You do not even have to go to any expert. If you compare Kenyan services with any other internationally, regionally and even locally, there is no comparison. You only need to know the cost in terms of investment and revenue generation. You need only those two indicators. There is no country in the region from Sudan up to South Africa and from here to Nigeria, that compares to Kenya.

I get surprised when I hear of other countries. There is no comparison; Kenya is far off. In fact, Kenya is very advanced. It is already manufacturing some very advanced equipment like radio equipment and exchanges. Kenya was just about to enter into a very sophisticated age but because of the collapse of the Berlin Wall, we had to start everything all over. Otherwise, we should be among the Asian economic tigers. In fact, we are approaching there. I am sure that my friend, Dr. Ochuodho, will agree with me, that we are almost there.

Mr. Mwenda: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the Minister to mislead this House by bringing in the issue of the Berlin Wall, which has got nothing to do with our collapsing economy, which has been caused by corruption, mismanagement, bad governance and issues that relate to our own local making other than the foreign making?

The Minister for Water Resources (Mr. arap Ng'eny): I am sure that, that phenomenon did not start yesterday. The problem with this country is tribalism. If it were not there, then nothing would have happened. One of these days, I would like to give a special statement on this. When I left that institution---

(Loud consultations)

I will leave that for today. I am---

Mr. Munyasia: On a point of order, Mr. Temporary Deputy Speaker, Sir. Could we get the record correct? The Minister is misleading this House by saying that the problems that we have, say, even in the post office, are because of the fall of the Berlin Wall, when the PIC Report is full of cases of corruption headed by hon. arap Ng'eny. Could he set the record straight?

The Minister for Water Resources (Mr. arap Ng'eny): Mr. Temporary Deputy Speaker, Sir, is it in order for the hon. Member to speak about me without substantiation? Let him bring a substantive Motion and then I will respond.

Prof. Sumbi: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Minister in order to deny facts that have been reported in PIC Reports, that he should not even hold a public office?

The Minister for Water Resources (Mr. arap Ng'eny): Please, bring a substantive Motion and I will reply.

The Temporary Deputy Speaker (Mr. Musila): Mr. Ng'eny, have you finished?

The Minister for Water Resources (Mr. arap Ng'eny): Mr. Temporary Deputy Speaker, Sir, with those few remarks, I beg to support.

Mr. Muite: Thank you, Mr. Temporary Deputy Speaker, Sir. We were looking forward to being enlightened by the one person who has got information. He should enlighten this nation and this august House. But, of course, we cannot force him to take the gauntlet. For example, I was waiting to hear whether hon. Ng'eny might throw some light on the company that has got a monopoly in respect of mobile telephones in this country, if he knows about it. Is it true that, that company was given as a retirement benefit to an individual who, up to now, is pocketing Kshs.170,000 for each mobile telephone? This is what we would like to know. Is this the reason why in the neighbouring countries, matatu vehicles and individuals have got these telephones while here, it is still being treated as a status symbol? We are not going to be able to effectively liberalise unless we eradicate corruption in this country. Before the Government brings up a Bill like this one, they need to make up their minds on what objectives we are seeking to achieve by bringing this Bill.

In my view, the objectives should be very clear; namely, to bring confidence in the country in that particular area of the economy. The whole object of liberalisation is to instil confidence in the investors and the consuming public that they are going to get good and cheaper services. Above all, it should be an indication that, those who have the money to invest are going to feel confident with the provisions in the law and, therefore, invest in this country in that particular sector. The Government should examine very closely, these provisions of the

Communications Bill and ask itself whether they will in fact, succeed in attracting investor confidence in this country from those who may wish to invest in telecommunication services. If it is not going to achieve that purpose, then this Bill is not worth the paper on which it is written. There are a number of issues here that will not make it possible for those who might otherwise have the money to invest in this area. I would appeal to this Government and, in particular, to the Minister in question, not to treat contributions from this House as talk shows. Listen carefully, make notes and incorporate constructive suggestions that are going to make it possible for this Bill to create confidence, so that those with the money can invest. This will make it possible for us to provide services that people will be able to afford. If there is no confidence, then the investors will not invest in this area and, therefore, the cost of services will not be any lower. As a result, we shall not achieve our objectives.

What I am saying is that, the Government should get rid of this idea that we have to liberalise in order to get money from the World Bank, IMF and the bilateral donors. They are the ones who are telling us to liberalise communications, therefore, we will try to come up with something that satisfies them. Let our objective not be the satisfaction of the IMF, World Bank and other donors. No! Let us not move forward towards liberalising communications sector in order to get donor money. As long as the provisions of this Bill are intended to carry out cosmetic liberalisation in order to get that donor money, we will not even get that donor money. We will not restore investor confidence and will not attract those investors. We shall have failed.

There are provisions here that actually discourage investors. The investors will not accept that you have liberalised the market, when they look at the following provisions. On page 127, if I was an investor and looked at Clause 88, and saw the powers that are given to the Minister; for example, powers on an occurrence of an emergency; that on the occurrence of any public emergency, or in the interest of public safety and tranquillity--- These are very general and vague terms that have been abused in the past. We have heard such terms as "in the interest of peace or "that and that", and the sole judge is the Minister. There is no criteria or provision for review.

There is no appeal to an independent person. If I was an investor, with millions of dollars, wishing to invest in the area of communications, and I read Clause 88, that a Minister, in the interest of public safety and tranquillity, can issue an order and take over my investment, I would not invest. Clause 88 is actually giving the Minister for the time being, power to take over the investment of any person, for an indefinite period of time. These sort of powers have been abused in the past. There is no guarantee that they are not going to be abused in future. Sub-Clause 2 of Clause 88, goes on to say that a certificate signed by the Minister, for the time being in charge of internal security, shall be conclusive proof of the existence of a public emergency, or any act done under Sub-Clause 1, which will affect public safety or public tranquillity. These are very draconian powers being given to a Minister, who is going to be appointed by the President. Nobody will invest in the communications industry in this country, as long as we have these draconian powers.

Why does the Minister not bring an amendment to create a Committee of this House, so that the investor can know that the decision will not be taken by one single individual, who will have been appointed by the President of the country? It should be debated by the Committee of the House which should agree that there is an emergency, and that public tranquillity or public safety demands that the Minister can take over a company of a particular investor for a limited period of time. That way, you may begin to send signals re-assuring possible investors.

The other critical one relates to the composition of the Board. Clause 5 sets out the objectives clearly, that the objected purpose for which the Commission is established shall be to licence and regulate. Regulating and licensing are different from control. But it would appear that the Government has still not appreciated the concept of regulation, as distinct from control. When you look at the structure of the entire Act, the Government still wants to control. The Government is not regulating, but rather, it wants to control. It is like when your daughter has grown up. You must allow her to be married and to go to her husband. Her parents must stop to control her. You must learn to let go. The Government has not learnt to let go. It is trying to let go, but it still wants to continue controlling. It is totally unacceptable, the manner in which the members of the Board of the Commission will be appointed. I appeal to the Government, that unless this clause is amended, it will not attract any investor confidence. This is because the Board will be appointed exclusively by the Executive. The Chairman will be appointed by the President. Then you have got Permanent Secretaries who are also appointed by the President. The five other members will be appointed by the Minister, who himself is appointed by the President. There is a lot of control here, and I would like to appeal to the Minister, hon. William ole Ntimama, to give serious thought, to the arrangement and distribution of powers in this Clause. If he is going to liberalise the communications sector, the starting point would be to liberalise the power to appoint the Board. The investors will know that the Board will be truly independent. It is a Board with a lot of powers. It has been given powers to licence. When you look at the licensing provision in Clause 77, the Board is in a very powerful position. It has very draconian powers to attach conditions. If I was an investor, I would feel that my investments are at the

mercy of the Board, which can even cancel my licence, and attach conditions to my operations. If the Board is centrally appointed, it will be a hangover from the economy, that everything stems from one person.

When we talk about restructuring our Constitution, we do not even talk about the current President. The powers that are there in our constitutional arrangement today are such that, even if we had an angel from Heaven coming to be the President of Kenya, the angel would cease to be the President in three weeks' time. This is because of the immense powers that the angel will enjoy. We must get away from the idea that everything must be done by the President, and when you move to another area, you will be seen to be touching on an area which is prohibited.

I support the proposal by hon. Raila that a majority of the members should be appointed by the industry, and not the Government. Certainly, let us have the Chairman's name brought to this House for vetting and approval. Let the President bring the name that he wants to this House for debate and approval. A lot of individuals, who know that they have got skeletons in their cupboards, will not even allow their names to be suggested for vetting in this House. They will know that they are unsuitable. They will not want their backgrounds and their lives to be exposed in this House. This is the beauty with approval by Parliament. Let us amend this Clause and let a majority of the members come from the private sector, and let the name of the Chairman be brought here for vetting. The investors will then see that, they are subjecting their investments to a truly independent Board.

That also should happen to the Appeals Tribunal. The present mechanism of the Appeals Tribunal in Clause 102 is left hanging in the air. Even the criteria under which they will consider the appeals is not set out in the Act. We need to synchronise and harmonise what the Appeals Tribunal will do. First of all, the members and the Chairman of the Appeals Tribunal should not be appointed by the Minister, in consultation with the Attorney-General. Let us bring in democracy here, and decentralise the appointment of the members of the Appeals Tribunal. It is a very important Appeals Tribunal. With regard to the Appeals Tribunal, I would suggest, and I am pleased to note that the hon. Minister is listening, specific suggestions of rewording the clause.

We should have a new section, on page 140 which should read as follows:-

"The Appeals Tribunal shall expeditiously entertain and dispose of appeals from any member of the public against the decisions, regulations or prescriptions of the Minister."

A member of the Public or anybody should be able to access the Appeals Tribunal; not just from the refusal by the Board to give them a licence, but to appeal against the decisions, regulations or prescriptions of the Minister, the Government, the Commission or any other service provider, ensuing from the provisions of this Act, and should be invariably guided in their judgement.

We have to give some guidelines to that Appeals Tribunal, otherwise, you have not given them any guidelines on how they are to exercise powers. So, we should give them guidelines that they shall invariably be guided in their judgement by the objects and reasons of this Act. The objects and reasons should be set out very clearly in Clause five and they should be: Firstly, to attract private investment in the provision of such services; secondly, to protect the interest of consumers, purchasers and other users of such services with respect to the price charged for and quality and variety of such services; thirdly, to promote and maintain effective competition between providers of such services in order to ensure efficiency and economy in the provision of such services and to encourage research and development in relation thereto, and fourthly, to ensure that the services provided pursuant to the provisions of this Act, meet international standards. Finally, the Commission should formulate and implement methods, incentives and conditions to ensure availability of affordable telecommunications services, particularly, emergency, public pay-phones and directory information services throughout Kenya.

When you look at the way the Commission is being asked to provide services throughout Kenya, again there are no guidelines on how it is going to do that. How, in fact, is the Commission going to achieve that goal? My suggestion is that, some amendments should be made to this Bill, so as to require every licensee to contribute to a fund that can be set up; a fund that can then be used to subsidize services to areas that are not served by any particular company. In other words, if every licensee is actually asked to contribute whatever percentage, these are details that can be worked out to a central fund, which can be used to subsidize to the company that wants to go and operate in Narok, Garissa and any other place. What is likely to happen is that, a lot of these companies, because they are commercial companies, they will want to operate in Nairobi, Nakuru and Mombasa, but not in the rural areas. Yet, you are asking the Commission to ensure availability of these services in those areas. How are you going to do it, unless you create this sort of fund, so that a company can apply and say: "Yes, we want to go to Garissa, but we cannot make money, you have to subsidize." Then you can subsidize from that sort of fund that is going to be contributed to by each and every licensee. These are serious suggestions that we are making and I do hope that, they will be taken seriously because it is our desire to see this Bill succeeding, and not failing. But the way it is structured at the moment, it cannot succeed. There is no investor confidence that is going to be created

and it is really not going to work at all.

With those few remarks, I beg to support, subject to those amendments.

Thank you.

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

[Mr. Deputy Speaker took the Chair]

The Minister for Cooperative Development (Dr. Anangwe): Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity. I stand to support this particular Bill which is timely. The world is becoming a global village. Both national and sub-national boundaries are becoming irrelevant and our participation in this global village is highly constrained by the telecommunications services which are not enough. Last year, for instance, the telephone exchange connections in this country, were about 271,000. In 1997 there were about 6,267 public pay-phones and 5,345 mobile telephones. I am saying that these are not enough. With regard to postal services, instead of increasing, the number has been going down compared to 1996. In 1996, there were about 1,062 postal offices and as of late last year, there were about 1,034 and I am simply saying that these are not enough and hence, there is need for this particular Bill to bring in other actors to complement what the Government has been able to achieve for us to participate effectively in the telecommunications sector.

Mr. Deputy Speaker, Sir, whereas it is true that we need to bring in other actors, it should not be misunderstood that there will be no need for regulation. I know the hon. Member for Kabete has tried to indicate that there is a difference between control, regulation and licensing. Probably we can reserve that kind of debate for a private forum. But this is what I would like to emphasize on. Privatisation does not mean free-for-all. It simply means that you are bringing in private actors to complement what the Government may be doing but at the same time, you need a regulatory body to exercise control, so that whatever services and whatever technology is being brought into the country, is for the public interest. Let us not always assume that whatever activity a private investor engages in is necessarily in public interest. But as much as you may accuse the Government or even the public sector of having ill intentioned people, may I say rightly here that, even within the private sector, there are crooks, particularly, when you bring in private investors from abroad. Whereas it is true that Adam Smith did argue at some point that, whatever is maximized through private accumulation ends up benefiting society, I think he must have been wrong. We have experiences born out of history and evidence that in the long-run, people without regulation, particularly, in the private sector, would rather take shortcuts, even if it means compromising public interest and feeding people on services and goods that are not really what they are purporting to be.

Therefore, all I am trying to emphasize and which should be taken cognizance of by my fellow hon. Members, is that there is need for regulation. We may talk about other agencies, the need to bring in the private sector to participate in the boards but with respect to this particular one, it is a regulatory body and it is given responsibility by the Government as the authority within the land to provide that particular service of regulating, hence, personally, I do not see anything wrong with composition of the Board of this particular Commission because its role is essentially to provide regulatory services to ensure that, at least, whatever the private entrepreneurs are doing within the telecommunications services sector, it is in conformity with what is good for the public and it, of course, maximizes the benefits for the entire nation.

Mr. Deputy Speaker, Sir, the way this regulatory body is formed, is okay. But when it comes to debating other Bills like the Postal Services and the Telecommunications Bills, probably other considerations that have been brought about here, may also be discussed.

Mr. Deputy Speaker, Sir, whereas we are under liberalization, sometimes we tend to be carried away by the notion of privatization. Privatization simply means that we are transferring services previously under the strangle-hold of the Government to other forms in which the same services could be dispensed. These services could be dispensed by outright sale to a private entrepreneur or contracting out the management. That means, the services still remain within the Government's hands, but we contract out the management to the private sector. We have very many examples where this has succeeded, for example, the Mumias Sugar Company case. The other form of privatization is of course, commercialization of services previously dispensed freely, which have to be paid for. This is what this particular notion refers to. I must emphasise that privatization does not really mean that we are getting rid of Government control entirely. It simply means that we are trying alternative arrangements and putting in place, both regulatory and institutional mechanisms to facilitate that particular process.

Mr. Deputy Speaker, Sir, my own worry is that, as we go about privatization under various ways, and as we bring in other private actors, technology and products that have been unknown in this particular environment

are coming in. Our major shortcoming is that, we may not have the capacity to evaluate whether or not, this particular technologies and services really harmonise with our public interests. We should remember that we come from a continent where everyone has always taken advantage of us, particularly in this age of modern technology. The risk we face is that, unless we put in place regulatory mechanisms, we may end up being a dumping ground and consumers of rejected products that may not be of benefit to us.

Therefore, all I am trying to say is that, we should understand the way this particular Bill has been formulated as a way of providing regulatory framework; a framework that will help us to dispense better telecommunication services throughout Kenya, as well as radio communication and postal services.

Mr. Deputy Speaker, Sir, may I emphasise that our main problem in this part of the world is not so much about---

Mr. Kariuki: On a point of order, Mr. Deputy Speaker, Sir. Is it in order for the Minister to keep belabouring on this point about regulations *vis-a-vis* privatization, when he knows very well that the regulators have failed? That is why privatization is coming in to increase the element of watchfulness against misdeeds in the public sector. The private sector is chipping in to help uplift management and know-how which lacks within the public sector.

The Minister for Co-operative Development (Dr. Anangwe): Mr. Deputy Speaker, Sir, that is not a point of order, it was an argument.

Mr. Deputy Speaker: Order, Dr. Anangwe. It is not for you to rule that it is not a point of order.

The Minister for Co-operative Development (Dr. Anangwe): Mr. Deputy Speaker, Sir, I bow to your ruling. I am quite willing to continue this debate elsewhere, but for our purposes I---

Mr. Raila: On a point of order, Mr. Deputy Speaker, Sir. The Minister should read the Memorandum of Objects and Reason, which talks about liberalization and the reasons behind it. Is he not contradicting this when he talks about the Government remaining in the scene when we are talking about liberalizing?

The Minister for Co-operative Development (Dr. Anangwe): Mr. Deputy Speaker, Sir, I have read this particular Bill the way it is and my understanding is not more different from yours. I was only trying to emphasise the fact that the Bill is putting in place regulatory mechanisms within which both the Government and private actors in the telecommunications sector can come in and participate effectively.

Mr. Deputy Speaker, Sir, I will now go into specific areas that have been mentioned. The aim of this particular Bill is, of course, to regulate the provision of telecommunications services. The point I have been trying to make is that we do not have so much a problem of demand. The demand for telecommunication services in this country is insatiable. What we do not have in place is, of course, the supply of these services. I have a case in point in my own constituency in Butere. We do have a telephone exchange there but it is not serving us well. It is permanently down and my constituents have constantly requested that we have public pay-phones in every division, sub-location and, if possible, in every market place. This is not always possible to provide, but we hope this Bill will make this particular service accessible in the area.

Mr. Deputy Speaker, Sir, with respect to radio communication, may I say that many of the television stations tend to target the urban audience whereas there are many people in the rural areas who may find it useful to watch television. The number of television sets being sold in Kenya is very small. Last year, about 44,357 TV sets were sold. I am sure that if all TV stations could broaden their markets and extend their services to the rural areas, many people would find the need to buy TV sets. But as of now, many of the new and more interesting TV stations tend to focus largely, on Nairobi, and if there happens to be some change or improvement, they go to Mombasa. But there are some areas which are not accessible to some of the TV stations. My pledge is that, as hon. Raila mentioned here, as we license these private providers of such services, I think they should be constrained and obliged to make sure that they distribute their services spaciouly, to cover the entire country. Radio communication in this country is one of the most effective ways of reaching the masses. I am always very surprised that in my constituency, TV messages may not reach many people since only a few of them have TV sets. They are only able to get messages through the radio. The problem is that many of the radio sets are not always affordable. If you looked at last year's figures of sales for radios, you would have noticed that only about 173,000 were sold. I am sure that many more people would be willing to buy radios if they were made affordable.

In respect to the licensing of other commercial and private broadcasting stations, I would plead to this Commission when it is formed to treat this responsibility with care. We do not want to enter into a communication phase where we will have gutter TV stations. We want TV stations which can promote the interests of the public; stations which can promote public policies and be responsive to national culture. It is always shocking to hear from the Ministry of Health that we should control AIDS. We are telling our people to engage in zero-grazing while minutes later, on television, we see the antithesis of the very message that one has been preaching through

some of the known films where reckless sex is shown. This kind of message does undermine, for instance, a policy towards managing the spread of AIDS in this country.

Mr. Deputy Speaker, Sir, in terms of the transmission stations, the reception of television signals in some parts of Kenya is not very good. We hope that with this particular Commission, it will be possible to strengthen the reception of television transmissions in most parts of Kenya. With respect to postal services, I have already mentioned that, that particular service is insufficient and presently it is declining. In 1997, there were only 1,062 as compared to 1,634 in the previous years. For the rural communities, postal services are the most effective way of communication. Apart from getting letters and correspondence from their kith and kin in urban areas, they also get remittances. If one was to look at the remittances between urban and rural areas, particularly with the declining acreage of land, the rural population is becoming increasingly dependent on remittances from urban areas. Unless we streamline those services to enable those postal orders or money orders to be transported to the rural areas; then we are making the lives of the rural people a bit difficult. Therefore, instead of closing postal services because of economic reasons, we would rather expand them at the districts, divisional and if possible, at the locational levels. A major complaint we keep on getting from Butere Post Office is that people receive money orders, but when they go to cash them, they are not served because there is no enough money. I am trying to emphasize that this particular Bill---

Mr. Maore: On a point of order, Mr. Deputy Speaker, Sir. Is the Minister in order to anticipate Bill No. 8, while we are on Bill No.7? He has actually spent more than three minutes on the Postal Corporation Bill.

The Minister for Co-operative Development (Dr. Anangwe): Mr. Deputy Speaker, Sir, I think the hon. Member just came in while I was in the middle of my contribution. Postal services are part of this Bill, if he is not aware. I would rather not engage him in a discussion on that particular issue, because it is very clear on page 104. In relation to inadequacies in the provision of that particular service, with respect to Butere, we hope that the Commission will be able, at least, to make a difference. I have been trying to emphasise on the need for both regulation and privatisation within this particular context.

Mr. Donde: Thank you, Mr. Deputy Speaker, Sir, for giving me time to say something about this Bill.

Mr. Deputy Speaker, Sir, the communication sector in this country is one of the most important sectors in our economy. In fact, you can only compare it to the Kenya Revenue Authority because this sector can only make money and do not lose it. Over the years, the Government has siphoned money to this sector so much that it has not been able to play its role in the economy of this country. Therefore, there are a number of points which need to be looked into so that this Bill can be strengthened. Through this Bill, we can strengthen the communication sector so that it can operate on its own.

Mr. Deputy Speaker, Sir, I shall start by talking about the composition of the Board. Many of my colleagues have already said something on the composition of this Board. Starting with the appointment of the chairman, there is nothing to say what qualifications the chairman of this important organisation should have. The powers to appoint the chairman have been conferred on the president. Since the communication sector is very technical and complex we need somebody competent to head this commission, however, given the provisions of this Bill, we would not be able to blame the President if he appointed Mr. Philemon Chelagat as Chairman of the Board. What are we going to do in such a case because we have given him that right to appoint the chairman without specifying the qualifications of the chairman?

This sector is important and whoever is going to be appointed chairman of this Board should have the technical and necessary experience to be able to guide this sector. Therefore, I would suggest that in the appointment of the chairman, we should specify some necessary qualifications that he should have to avoid ending up with somebody with no qualification since the rule allows that the President can appoint anybody as chairman.

Mr. Kariuki: On a point of order, Mr. Deputy Speaker, Sir. Is it in order for the hon. Member to insinuate that Philemon Chelagat has no qualifications when we know that he was once the Mayor of Kabarnet?

Mr. Donde: Mr. Deputy Speaker, Sir, all that I am saying is that the appointed chairman may not have the qualifications as specified under the Kenya Communications Bill, but I gave his name as an example.

Mr. Deputy Speaker, Sir, going on to the composition of the board, the number of Government appointees is a little bit too large for this sector. This is supposed to be a commercial-oriented institution and most of the Government appointees do not seem to be able to make decisions on their own. They always want to refer to the Ministers and possibly to the President and, therefore, in a commercial environment, it would be better for the majority of these appointees to be people who can be able to make quick decisions on their own. In other words, the majority of these appointees should come from the industry so that they can be able to make those technical decisions quickly. The Government appointees should only be there to take briefs and to notify the Government on how things are getting on in the communication sector.

Mr. Deputy Speaker, Sir, on the question of licensing, there is no time frame given in this survey. For example, if you apply for your licence and you do not get a reply within a month, what are you supposed to do? I think there should be a time frame in this licensing such that if they do not let you know by one month, you should be able to know what you are supposed to do next. For example, in most of these institutions, you can apply and they do not even acknowledge receipt of your application. They do not even let you know what is going on and you can wait for months and months and this is not good for the business community. They would like to operate in a situation of probability and not of uncertainty. Therefore, I was of the opinion that there should be a time frame on the issue of licensing so that the applicants can know when to expect a reply on the position of their applications.

Mr. Deputy Speaker, Sir, on the question of infrastructure, the prevailing infrastructure is more or less in-built. If one of these competitors will be left to control most of the infrastructure, it will mean that they will probably perpetuate the monopoly of this industry. This is because if the Communications Bill is going to hand over most of this infrastructure to one competitor, the monopoly of this sector will be perpetuated. Therefore, I think there should be a clause to break down the monopoly of the communications infrastructure.

Mr. Deputy Speaker: Order, hon. Members! Today is Thursday and the time being 6.30 p.m.; since it is not an Allotted Day, it is now time for the famous Zero Hour. I will, therefore, now proceed to call upon hon. Members who have complied with the provisions of Standing Order No.20(A) to put their points across. Hon. Murungi!

Mr. Maore: On a point of order, Mr. Deputy Speaker, Sir. Are we using these silly rules to gag Members here?

Mr. Deputy Speaker: Order, hon. Maore! I think it is most dishonourable for you to behave in that manner when, in fact, you and I are supposed to have reached an agreement! Nothing is more dishonourable than to go back on something over which you had agreed. So, why do you not wait until I reach the point when I will have to deal with your issue?

Hon. Murungi, proceed!

PERSONAL STATEMENTS

REPAIR OF ROADS IN MERU DISTRICT

Mr. Murungi: Mr. Deputy Speaker, Sir, I rise to seek a Ministerial Statement from the Minister for Public Works and Housing on a very serious matter which touches on the credibility of this Government.

Mr. Deputy Speaker, Sir, in February, 1998, the Minister for Public Works and Housing, accompanied by the Head of delegation of European Union, Mr. Saulzman(?), visited Meru District and both of them assured the Meru leaders that: First, the portion of the Thuci-Nkubu Road which had been destroyed by *El Nino* rains and landslides near Mutonga Bridge would be repaired with immediate effect. Secondly, they assured Meru leaders that each of the Meru Districts would receive Kshs100 million as part of the Roads 2000 Project which covers seven districts in Eastern Province, for the upgrading of coffee and tea roads. Thirdly, they assured the Meru leaders that the European Union would provide funds for the construction of the Meru-Githongo-Chogoria Road.

Mr. Deputy Speaker, Sir, we were very surprised that even the K£20 which is normally allocated in the Budget to indicate Government interest in a project has been removed for the Meru-Chogoria Road. So, I am seeking a comprehensive statement from the Minister for Public Works and Housing on these three issues.

Mr. Deputy Speaker: Mr. Minister, if you are ready to respond, you can do so now. Otherwise, you can do it later on.

The Minister for Public Works and Housing (Mr. Kones): Mr. Deputy Speaker, Sir, I am ready to respond right now. It is true that we visited Eastern Province with a European Union delegation leader in February, 1998. The three issues that have been raised by the hon. Member are all true. But I would like to explain the circumstances that have lead to the situation prevailing on the ground.

Mr. Deputy Speaker, Sir, investigation of the soils around the landslide areas is going on to determine the best way of carrying out these repairs. In the meantime, there is continuous cleaning of drips from the road to facilitate easy movement of traffic on the site. There has been a continuous landslide in the area even after the *El Nino* and we really have to do a proper study on why this landslide is continuing. It is not a one day's job. The study is going on. The hon. Member is aware of this because we told him of it then and we have kept on telling him about it.

Mr. Deputy Speaker, Sir, the European Union has provided a total of Kshs700 million for implementation of the Roads 2000 Programme in eight districts in Eastern Province. These districts include

Makueni, Machakos, Embu, Mbeere, Meru South, Meru North, Meru Central and Tharaka. Allocation of funds will be done according to the amount of road improvement and maintenance of each district. Engineers and surveyors of the Ministry have just returned from the districts where they assessed the needs of the districts and they are at present preparing their reports.

In addition, surveyors are working in the following Meru districts: Meru South, Meru North and Meru Central. The surveyors' mission in the district is to take existing road levels to facilitate the preparation of the Bills of Quantity. This is in the spirit of transparency and accountability in the awarding of tenders. There will be awarding of tenders after the survey work is completed. The pre-qualifications of the contracts will be done in the first week of August, 1998. Tendering will start as soon as an average of 20 kilometres can be done in every district. We expect work to start in the first week of September. That is when all works will start.

Mr. Deputy Speaker, Sir, on the Meru-Chogoria Road, the hon. Member said the very token amount which usually appears in the Development Estimates did not appear this time. I explained to the hon. Member that there was no point in doing that because we do not intend to undertake this project in this financial year. It is definitely going to be undertaken some time in the next financial year, or in the other financial year. In the meantime, as is the procedure, the European Union is supposed to be officially requested by the Ministry of Finance to provide financial assistance for the construction of Meru-Chogoria Road. By our letter REF.NO.MPW/A35.33 of 2nd July, 1997, we requested the Ministry of Finance to approach the European Union for this purpose. Having received no response, we reminded the Ministry of Finance to follow up the issue by our letter of 10.7.98. Up to now, we have not received any reply. I had also to write another letter to the Ministry of Finance, and requested them to make a formal request to the European Union.

Mr. Deputy Speaker, Sir, we are not going to abandon this project. We are going to follow it up. Thank you.

PROTECTION OF AFRICAN BUSINESSMEN

Mr. Ndicho: Thank you, Mr. Deputy Speaker, Sir. I wish to make the following Statement to the Minister for Trade and request him, on behalf of the Government, to protect Africans in the transport business, who have been threatened by a foreign company called; Tibet and Bretin Overseas Company Limited. This company has imported into this country over 100 old Mercedes trucks from Europe and South Africa. They are now transporting goods and products from the East African Industries, Kenya Breweries, Metal Box, Bidco and other such manufacturers at the expense of African transporters. There are so many Africans who had bought new trucks in this country, helping the economy of this country to grow, but they are all now out of transport business because of these whites. It is the responsibility of the Government to protect these people and not to give preference in this important industry to foreigners. There are even Asians who are now operating public matatu businesses, and the Africans who are in this business cannot compete with them. The Africans who had bought these trucks on loans, are now selling them and their trucks have been attached by the banks because of non-payment of the loans.

Mr. Deputy Speaker, Sir, the same foreign company is mistreating African employees in that company. I am asking the Minister for Trade to protect our own people from exploitation by foreigners. I am wondering whether these whites are Kenyan citizens. The fact that they have money in Europe and South Africa to buy these old trucks, does not give them the mandate to come and conduct the business that our people are supposed to be doing. So, I request the Minister to make a Ministerial Statement on this issue and assure this House, the country and the African transporters that the KANU Government will at least, for once, protect that good business. If Africans will be kept out of it, there is no other business left.

The Minister for Trade (Mr. Kamotho): Mr. Deputy Speaker, Sir, I beg to respond to the request by hon. Ndicho, the Member for Juja. I am aware that the referred Company; Tibet and Bretin Overseas Limited, is a foreign public limited company, registered in the United Kingdom. It was incorporated in this country in June, 1995, through registration with the Registrar of Companies. Then, it was registered to do business of transportation, warehousing and distribution by the then Ministry of Commerce and Industry, in August, 1995. What we have to agree is that we are in an age of economic liberalisation. We asked for it and the people who were most vocal in asking for privatisation and liberalisation were on that side of the House.

Mr. Deputy Speaker, Sir, there are many Members of Parliament particularly on that side, who are lawyers. They know that when a company is properly registered legally and as long as it is operating in accordance with the laws of the land, there is nothing the Government can do.

An hon. Member: They are not!

The Minister for Trade (Mr. Kamotho): They are, as far as I am concerned. When it comes to the question of any mistreatment of our local people, the Ministry of Labour is there to take the necessary action. The

other point that I would like to make - and Members should be very clear about this - is that it is our responsibility to encourage our own people also to diversify their businesses. Those transporters should diversify their businesses. They should diversify into warehousing and participate in distinctive trade. This is because there is nothing we can do to a company which has already been registered. This is because it can approach the East Africa Industries (EAI) or Kenya Breweries (KBL) for services. Once they have offered it services, there is nothing the Ministry can do.

Mr. Deputy Speaker: Order! Hon. Wambua!

LACK OF WATER IN MATUU TOWN

Mr. Wambua: On a point of order, Mr. Deputy Speaker, Sir. I rise to seek the attention of the Minister for Water Resources. The matter I am raising is very serious because it affects my constituency. Due to lack of water in Matuu Town, which is the second largest town in Machakos District--- The town has a population of about 9,000 people, including children. It has four boarding secondary schools and about five primary day schools. It has also a tourist hotel known as "Dallas" and a police station. It is the headquarters of Yatta Sub-District. The town has also two hospitals. One of these hospitals carries out surgical operations of a serious nature. There is also a mortuary in one of them. The residents of this town have already paid their water bills to the Ministry of Water Resources. But because of disconnection of power by the Kenya Power and Lighting Company personnel, due to non-payment of electricity bills by the Ministry, the town is now a health hazard to our people. There has been no water for the last two months. The Ministry is aware of this but it is not serious about the issue. I rented an office at hon. Kiluta's building, but I had to suspend serving my people from there because the toilets are filthy. Therefore, the Minister for Water Resources should give a Ministerial Statement on this issue.

The Assistant Minister for Water Resources (Mr. Chanzu): Mr. Deputy speaker, Sir, I would like to inform hon. Wambua that the Ministry is actually serious on the matter. However it was not aware of the problem as highlighted by the hon. Member. But I would like to assure this House that we will go there to investigate the matter. The Ministry will respond on Thursday next week.

Thank you, Mr. Deputy Speaker, Sir.

POOR SECURITY IN NORTH IMENTI

Mr. Mwiraria: Thank you, Mr. Deputy Speaker, Sir. I rise, pursuant to Standing Order No.20(A), to ask for a Ministerial Statement from the Minister in charge of internal security in the Office of the President. Divisions in North Imenti Constituency, namely Kimau and Buri, have had poor security for the last three years. This is particularly so in the case of Mukando and Rwarera Locations.

The two divisions border Laikipia, Samburu and Isiolo. The people have run away because they have lost all their livestock and other property, which has been taken from them at gunpoint. Last year in October, I asked the Minister what the Government was doing, and I was promised that the Government was establishing a police reserve unit. Today, I am standing here to ask the Minister when the police reserve unit will be established. Unless this is done within the next two months, the people are likely to get compelled to buy illegal arms, which we have been fighting against for quite some time.

The Minister for Agriculture (Mr. Mudavadi): Mr. Deputy Speaker, Sir, I will inform the Office of the President, and they will respond on Thursday.

ALLEGATIONS AGAINST MR. WAMUNYINYI

Mr. Wamunyinyi: Mr. Deputy Speaker, Sir, I rise to respond to an allegation made by the Minister of State, Office of the President, on the 15th of July, 1998, when he stated in the House that hon. Sifuna, hon. Munyasia and myself had approached a watch repairer, a Mr. Ngwengwe, to convince him to record a statement with the police, that the watch that was found at the scene of the murder of Mr. Stephen Mukhwana Wanyonyi, belonged to the chief.

The Minister's allegation is not only unfounded, but malicious as I do not know Mr. Ngwengwe, and I have never seen him. I have never approached him over any issue whatsoever. The Minister has concentrated most on protecting the chief. He has put a spirited effort to protect the chief instead of concentrating---

Mr. Deputy Speaker: Hon. Wamunyinyi, just stick to what affects you.

Mr. Wamunyinyi: Mr. Deputy Speaker, Sir, I am affected because the Minister has not concentrated on

the investigations, but has put a lot of effort on protecting the chief, and accusing me. It is a tradition, like it happened even in the murder of Dr. Ouko, where the prime suspect, hon. Biwott was favoured. The chief has also been favoured. A statement was recorded at---

Mr. Deputy Speaker: Order, hon. Wamunyinyi! You are rising to register your displeasure with what the Minister said about you. If you have finished, please sit down.

Mr. Wamunyinyi: Mr. Deputy Speaker, Sir, I would only ask the Minister to order the police in Bungoma to arrest the chief. I was at the scene of the murder.

Mr. Deputy Speaker: I assume that the message will reach the Office of the President. The Minister will have to come to this House and clarify what he said.

PROBLEMS IN FISH INDUSTRY

Mr. Sungu: Mr. Deputy Speaker, Sir, I rise to seek a Ministerial Statement from the Ministry of Industrial Development, with regard to the plight of the fish industry in Kisumu and Nyanza Province in general. Fish exports earned Kenya, Kshs18.6 billion in 1996 alone. Out of this, Nile perch exports from Lake Victoria earned Kshs11.16 billion. All this money now accrues to foreign interests or local companies with foreign interests. Such companies include; Afro Meat, Modern Fish, PEGHE Foods, Eagle Fish, Midas Fish, Samaki Industries and Capital Fish. The only two indigenous owned companies, namely, Fish, Meat and Lake Victoria Fish Limited have been forced to go out of operation. Fish and Meat, which was owned by the late Mr. Nderu was forced to re-locate to Tanzania. Lake Victoria Fish, which is owned by local indigenous people is now under receivership.

Mr. Deputy Speaker, Sir, may I just brief you on the background of this matter. Lake Victoria Fish Limited was financed by DBK, formerly DFCK to the tune of Kshs80 million, and the National Bank of Kenya, to the tune of Kshs60 million. This company employed 300 people directly, and 3000 fishermen indirectly. Due to some delays which we cannot explain now, and the high interest rates, the company failed to solve some problems and was put under receivership in 1996. The fallacy is that the appointed receiver from Price Waterhouse, Mr. J. Silcork, just closed the factory and came back to Nairobi.

Mr. Deputy Speaker: Order! Your time is up.

You are allowed 120 seconds. Minister for Industrial Development!

The Minister for Industrial Development (Dr. Masakhalia): Mr. Deputy Speaker, Sir, the fishing industry is an important sub-sector of the industrial sector that should be given the support it deserves. For various reasons, I was not here when the hon. Member approached the Speaker and the Clerk of the National Assembly to make his statement. I have not had the benefit of being consulted on the tabling of this statement. So, I am not in a position, even in a preliminary way, to react to his statement. But I will carry out the appropriate investigations and speak from an informed position next Thursday.

LOOMING STRIKE BY BANKERS

Mr. Muite: Mr. Deputy Speaker, Sir, I stand up to ask why this Government waits for a crisis to reach explosion stages and then starts reacting to that crisis instead of taking pre-emptive steps in order to avert the crisis. I have the looming strike by the bankers in mind. A strike by bankers impacts negatively and devastatingly on the economy even much more than the strike by the teachers. What steps is this Government taking in order to avert that strike? It is also going to include employees of the Post Office. Is the Minister for Finance, for example, prepared to make an announcement suspending the fringe benefits tax until such time that this House debates the matter in order to avert this strike because if he does suspend that tax, then this economy cannot continue to take blows?

Mr. Deputy Speaker, Sir, we have a very fragile economy at this point in time. There is a limit to the blows it can take. If you have a strike by bankers going on for a week, then the economy stands a chance of collapsing. Why single out the bankers? There are many other Kenyans who are having benefits that are not being taxed, including the fringe benefits being enjoyed by Ministers, Assistant Ministers and the President. Let us agree on the principle that there will be no fringe benefits to be enjoyed by any Kenyan which are not going to be taxed. Until we enforce that principle, why are you singling out and discriminating against the bankers? The Minister must make a statement

suspending the fringe benefits tax so that we can avert this strike.

Thank you, Mr. Deputy Speaker, Sir.

The Assistant Minister for Finance (Mr. Lomada): Mr. Deputy Speaker, Sir, I rise to respond. Since the hon. Member has raised a very sensitive matter, we have just received this particular statement right now and we are going to look into it critically and come up with a satisfactory answer next week.

Hon. Members: And the bankers are striking tomorrow!

Mr. Deputy Speaker: Order! Order! The Standing Order, in fact, requires you to be informed by 4.00 p.m. So, if you have been informed by 4.00 p.m., you have the time necessarily to prepare yourself to respond in the House. Be that as it may, two other issues were raised by Mr. Maore and Mr. Nderitu. Unfortunately, the papers did not arrive until after 3.00 p.m. when I was already in the Chair and it is not possible for me to transact paper work when I am in the Chair. I have undertaken to find time for the two hon. Members, next week, so that they can raise their issues after Question Time and thus have a fair share of what they could have had today.

ADJOURNMENT

Mr. Deputy Speaker: Hon. Members, it is now time for the interruption of business. This House is, therefore, adjourned until Tuesday, 28th July, 1998, at 2.30 p.m.

The House rose at 7.00 p.m.