

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 29th July, 1998

The House met at 2.30 p.m.

[*Mr. Speaker in the Chair*]

PRAYERS

PAPERS LAID

The following Papers were laid on the Table:-

The Report of the Departmental Committee on Finance, Planning and Trade on:
The Finance Bill, 1998
The Retirement Benefits (Amendment) Bill, 1998, and
The Local Authorities Transfer Fund Bill, 1998

[*By the Chairman (Mr. Mkalla)*]

NOTICE OF MOTION

AMENDMENT OF EMPLOYMENT ACT

Mrs. Ngilu: Mr. Speaker, Sir, I wish to give notice of the following Motion to the Minister for Labour:-
THAT, in view of the critical role played by women in the socio-economic growth of this country and noting that the Government of Kenya has ratified the resolutions of the International Conference on Population and Development (ICPD) and the Beijing Platform of Action and being conscious that a large number of women in this country suffer from serious anti-post natal health problems and noting that the current maternity entitlement leave is grossly inadequate, this House urges the Government to amend Section 7(2) of the Employment Act Cap 226 of the Laws of Kenya in order to grant women employees both in the public and private sector three months mandatory maternity leave excluding the annual leave.

ORAL ANSWERS TO QUESTIONS

Question No.341

VETTING OF RACHUONYO DISTRICT RESIDENTS

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

(a) whether he is aware that Rachuonyo District is referred to as a border district by the Department of the Registrar of Persons whenever people of the said District go for identity cards; and,

(b) if the answer to "a" above is in the affirmative, what the purpose of vetting these people before being issued with the identity cards is.

The Minister of State, Office of the President (Maj. Madoka): Mr. Speaker, Sir, I beg to reply.

(a) I am aware that Rachuonyo District is classified as a border district for the purpose of registration of persons.

(b) Vetting of fresh applicants is done to ensure that only eligible *bona fide* Kenya citizens are registered and issued with identity documents.

Mr. Oloo-Otula: Mr. Speaker, Sir, it has been known in the Department of the Registrar of Persons that people coming from this particular district have been actually interfered with. Indeed they find it very difficult to

be given identity cards before they are vetted. Could the Minister assure this House that once these people go to these particular offices, they will be given the identity cards without facing difficulties in getting them?

Maj. Madoka: Mr. Speaker, Sir, the hon. Member should appreciate that we have to ensure that it is only legitimate Kenyans who are issued with the identity cards. As it is, there are many towns or centres which are considered as border districts including my own Taita Taveta and vetting has to be done thoroughly before identity cards are issued.

Mr. Oloo-Otula: Mr. Speaker, Sir, Rachuonyo District is a district which is enclosed by many other districts. Why must it be considered to be a border district when it is at the centre of the former South Nyanza District?

Maj. Madoka: Mr. Speaker, Sir, there are many districts like that, but it is considered necessary because it is fairly close to the border and many times, it has people who come there who are not genuine Kenyans.

Question No.513

REHABILITATION OF ISHIARA IRRIGATION SCHEME

Mr. Ita asked the Minister for Agriculture:-

- (a) when the rehabilitation of the Ishiara Irrigation Scheme could begin;
- (b) how long the rehabilitation will take and how much will it cost; and,
- (c) when Kathingi Irrigation Scheme adjacent to Ishiara Scheme, would become operational.

The Assistant Minister for Agriculture (Mr. Karauri): Mr. Speaker, Sir, we are seeking some information on this Question and, therefore, I beg that it is deferred until tomorrow afternoon.

Mr. Speaker: Mr. Karauri, what did you say?

The Assistant Minister for Agriculture (Mr. Karauri): Mr. Speaker, Sir, I said that there is some information that we are seeking about the Question in order to satisfy the Member. So, I beg that it is deferred so that we can answer the Question tomorrow.

Mr. Speaker: Mr. Ita, are you happy?

Mr. Ita: Mr. Speaker, Sir, I have no objection.

(Question deferred)

Question No.227

ESTABLISHMENT OF MEDICAL SCHEME
FOR MEMBERS OF PARLIAMENT

Mr. Obwocha asked the Minister for Finance when he will establish a full comprehensive medical insurance scheme for all Members of Parliament and their immediate families.

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

The Government has no intentions of establishing a full comprehensive medical insurance scheme for Members of Parliament and their immediate families.

Mr. Obwocha: Mr. Speaker, Sir, I am shocked beyond repair by this answer from the Assistant Minister! You do recall that when I was involved in a very serious road accident between Kericho and Kisii, and I was air lifted to Nairobi by AMREF, my medical bills were in excess of Kshs500,000. The only money which Parliament was able to pay me was what they call *Ex gratia payment*. This is the reason why I am raising this Question. It is an important requirement for every Member of this House, including this Assistant Minister who has just come to the House during this Eighth Parliament. He is a great friend of mine. Could he tell this House the reasons why the Government cannot establish a full comprehensive insurance scheme for Members of Parliament?

Mr. Arap-Kirui: Mr. Speaker, Sir, while I respect and sympathise with my friend, hon. Obwocha, I think all of us knew the terms of our employment when we came to this House. Those terms did not include medical insurance. If I may add, the Government as we all know, is under certain budgetary constraints at the moment and therefore, it cannot, even if it wished to, establish a medical scheme for Members of this House.

Mr. Anyona: Mr. Speaker, Sir, maybe, we as Members of Parliament should avoid any cases where we might appear to be seeking special treatment from the rest of Kenyans. But the truth of the matter is that this

country has no medical scheme of any kind for any type of Kenyans. So, can he tell us then, what scheme he can come up with which also takes care of other Kenyans, including Members of Parliament?

Mr. Speaker: Just before the hon. Assistant Minister answers that question, I happen also to be the Chairman of the Speaker's Committee. To the best of my knowledge, this matter is pending before the Speaker's Committee. Mr. Arap-Kirui, are you aware that it is pending before the Speaker's Committee?

Mr. Arap-Kirui: Thank you very much, Mr. Speaker, Sir, for coming to my aid. I am aware of that fact, but since the hon. Member wanted his Question answered, I thought I would go a long way to answer this Question. But certainly, it is before the Speaker's Committee and since it is still at that Committee, we might wish to leave that matter to be competently handled by the Committee.

Mr. Speaker: I suppose, hon. Members, that is the best course to take.

Mr. Wamalwa: On a point of order, Mr. Speaker, Sir. The information that you have volunteered to the Assistant Minister was essential information in attempting to answer that Question. Was it in order for the Assistant Minister who now claims that he was aware that this matter was before the Speaker's Committee to withhold such important information to a Question like that one?

Mr. Arap-Kirui: Mr. Speaker, Sir, I did not think there was any secret about this matter being under consideration by the Speaker's Committee. I was merely giving additional information. If hon. Members did not know that it was before your Committee, then they now have the answer.

Mr. Ita: On a point of order, Mr. Speaker, Sir. If I heard the Assistant Minister correctly, is he in order to insinuate that the health of hon. Members of this House is not a matter that is of importance to the Ministry of Finance?

Mr. Arap-Kirui: Mr. Speaker, Sir, I think hon. Members have to make up their minds. We talk about liberalisation, avoiding Government interference and so forth. At the same time, we want a health insurance scheme run by the Government. There are facilities of private institutions---

Mr. Speaker: Mr. Arap-Kirui, I think I shall cut you short because I do not want this matter to be anticipated, so that the Committee can decide on this issue with a free mind. So, Question curtailed!

Question No.194

GOVERNMENT DIVESTURE FROM KBL

Mr. Speaker: Mr. Gatabaki's Question will be deferred. Next Question!

(Question deferred)

Prof. Anyang'-Nyong'o: Mr. Speaker, Sir, I have not received a written reply.

Question No.329

REDUCTION OF RUNNING COSTS OF FOREIGN MISSIONS

Prof. Anyang'-Nyong'o asked the Minister for Foreign Affairs:-

- (a) what plans the Government has to reduce the running costs of Kenya's Missions abroad;
- (b) whether the Kenya Mission office in Rue Sima Rosa in Paris is rented or bought; and,
- (c) why the offices at this particular Mission mentioned in "b" above are in such a sorry state of disrepair.

The Minister for Foreign Affairs (Dr. Godana): Mr. Speaker, Sir, the reply was handed in to the Clerk's Department. I am sorry if the hon. Questioner did not receive it. However, I beg to reply.

(a) The major development objective of the Government is to continue acquiring Chanceries and residential houses in the countries of our diplomatic accreditation. This is an on-going programme under the Public Investments Programme and it has been necessitated by the high expenditure of rents of leased premises. The Government also intends to undertake, and indeed, it has already undertaken a thorough rationalisation exercise of the staff and their operations in all Embassies and High Commissions abroad, in order to institute cost-effective measures, with a view to enhancing productivity and efficiency. I am sure the hon. Member is aware that in fact, as an emergency measure, we are right now implementing the directive to cut back, in some cases very severely, the number of positions in our foreign Missions abroad.

(b) The Chancery, Kenya Mission in France, was housed in rented premises at Three Rue Sima Rosa between 1973 and December, 1997. On 1st January, 1998, the Mission was re-located to Three Rue Presne, a prestigious, clean and newly refurbished building in the diplomatic enclave of Paris. This new building was acquired in 1997 and it is the property of the Government of Kenya.

(c) Three Rue Sima Rosa appeared to be - I suppose when the hon. Member saw it - in a poor state of disrepair from outside because the outside walls were the responsibility of the landlord and despite repeated requests, the landlord failed to fulfil our obligations. The interior of the building was, however, at all times in a much better shape. The Government was able to maintain it in a reasonably useable condition, despite the high cost of maintenance in Paris.

Finally, the new Chancery at Three Rue Presne is a suitable property which Kenyans can feel proud of as a representational property in France.

Prof. Anyang'-Nyong'o: Mr. Speaker, Sir, I am grateful that the Government has seen it fit to acquire premises in Paris rather than rent because the Kenyan Government has had a Mission in Paris for a very long time and it was indeed a waste of taxpayers' money to be paying such high rents at Paris rather than buying a property. Be that as it may, it still stands to reason that, prior to moving out of Rue Sima Rosa, both the inside and the outside of the building was not a good image to the Republic of Kenya. This does not only apply to our Embassy at Paris but to other Embassies as well. What steps is the Minister taking in this rationalisation exercise to ensure that we do not only have our Permanent Missions abroad in critical places like Washington, London, Paris, Moscow and Addis Ababa but also acquire properties rather than rent and put them in good order, with respect to the image of the nation?

Dr. Godana: I fully share the sentiments of the hon. Member that representational properties must be in very respectable appearance. Unfortunately, keeping properties in appropriate representational appearance is subject to the availability of finance. We will be seeking, from time to time special allocation from the Treasury through this House to be able to acquire new properties. The Government policy indeed, is to as much as possible minimise or eliminate in the long term, the need to rent premises; both residential and Chancery premises.

Mr. O.K. Mwangi: Mr. Speaker, sir, could the Minister consider multi-accreditation of our ambassadors rather than having them all over the world and yet they are doing nothing and costing this country a lot of taxpayers money?

Dr. Godana: Mr. Speaker, Sir, I do not agree with the hon. Member that ambassadors outside there are doing nothing. Our country is an important centre for international activities and, therefore, we should take into account, for instance, that it is the only Third World headquarters of the United Nations. As a result of that, Nairobi has emerged to have a larger diplomatic accreditation than any other African capital. It is important for hon. Members to understand that those countries in return expect us to reciprocate. However, by limiting our diplomatic missions, including consulates to 35, I think we might not have gone far enough. As it is, we do, in fact, have multi-accreditation to a number of countries. For example, our ambassador in Paris is accredited to Spain and Portugal. Our Ambassador in Italy is accredited to Yugoslavia and other countries. Most of our ambassadors, right now, have multi-accreditations. This is going to be a policy for quite sometime to come until we are able to have direct accreditation to most countries.

Mr. Wamalwa: Mr. Speaker, Sir, it is gratifying to hear the Minister talk about retrenchment as a measure to save some money that is hard to come by these days. But retrenchment by itself may not be the best way of saving money. In the past, there has been a lot of wasteful practices by Kenyan Ambassadors and High Commissioners abroad. There has been importation of extremely expensive furniture from Paris and purchase of houses in Namibia whose prices were far above the market place. Is the Ministry also looking into this terrible practice by past officials of the Ministry with a view to saving money? They must discontinue their extremely expensive and lavish life style that they have been enjoying until now.

Dr. Godana: Mr. Speaker, Sir, I want to tell the hon. Member, and the House, that we will certainly not condone any extravagance practice by diplomats abroad. I am not certain that our ambassadors enjoy unduly lavish life style. Our ambassadors do lead a fairly modest life style compared to other diplomatic communities in their countries of accreditation. We will certainly not allow anybody to get away with past practice. I do know, for instance, very recently, a returning diplomat has had his pension attached in order for the Government to recover monies that it feels were not accounted for. I think the bottom line is that we are now emphasising that no wastage will be tolerated. That is one of the subjects that are actually being discussed by the diplomats right now in their biannual meeting, which is taking place in Mombasa.

UNDERSTAFFING OF HEALTH INSTITUTIONS
IN THARAKA

Mr. Mwenda asked the Minister for Health:-

- (a) if he is aware that there are no qualified health workers at Kamanyaki and Ucweni dispensaries in Tharaka Constituency;
- (b) if he is further aware that there is under-staffing of health workers in Chiakanga and Marimanti health centres in Tharaka Constituency; and,
- (c) if the answers to "a" and "b" above are in the affirmative, when the Ministry will post enough health workers to these institutions.

The Assistant Minister for Health (Dr. Wako): Mr. Speaker, Sir, I beg to reply.

(a) I am aware that there are no qualified health workers at Kamanyaki and Ucweni Dispensaries in Tharaka Constituency. I would, however, like to confirm that the Ministry has already posted a nurse there, who is in the process of reporting. Ucweni Dispensary is under General Service Unit which has a nurse and the Ministry is supplying drugs to that dispensary.

(b) I am aware that there is under-staffing of health workers in Chiakanga and Marimanti health centres in Tharaka Constituency. At present, Chiakanga health centre has three nurses, while Marimanti Health Centre has one clinical officer and seven nurses.

(c) As explained in "a" and "b" above, the Ministry will consider sending some nurses to these health institutions as soon as they graduate from medical training centres later this year.

Mr. Mwenda: Mr. Speaker, Sir, considering that Chiakanga Health Centre serve about five locations and it is the only health facility in that area, could the Assistant Minister consider urgently posting there one or two other nurses instead of waiting until they graduate from medical centre later the year?

Dr. Wako: Mr. Speaker, Sir, while appreciating the Questioner's sentiments, I would like to inform him that currently the Ministry is experiencing shortage of personnel. However, the Ministry will post nurses to those dispensaries as soon as they graduate sometime in September.

Mrs. Ngilu: Mr. Speaker, Sir, problems affecting health centres and dispensaries around the country are a major issue to all Kenyans. Indeed, this is causing untold suffering to most people who live in rural areas and, especially women and children. I say so, because whenever you go to a dispensary in a rural area, you find women and their children or husbands queuing for services. Can the Assistant Minister tell us what action he is going to take to ensure that every dispensary and health centre in this country is equipped and has enough personnel?

Dr. Wako: Mr. Speaker, Sir, it is the Ministry's policy to equip and provide enough personnel in all dispensaries and health centres throughout the country, but at the moment we do not have enough funds to do so. However, the Ministry is trying very hard to ensure that the existing staff are able to carry out work in all dispensaries and hospitals throughout the country.

Question No.305

HARNESSING OF RIVER UASO NYIRO

Mr. Leshore asked the Minister for Energy what plans he has to harness the waters of Uaso Nyiro River to provide electricity to Samburu, Isiolo and Laikipia Districts.

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

Major hydro-electric projects are funding through the national Budget and their generated power is connected to the national grid to serve the whole country and not only the districts in the vicinity of such projects. Consequently, parts of Samburu, Isiolo and Laikipia districts are being served by the current national grid and power has already reached Malaral, Nanyuki and Rumuruti Towns.

The Ministry of Energy and the Ministry of Rural Development are co-operating to identify suitable dam sites along the Uaso Nyiro River. Uaso Nyiro North Development Authority is right now carrying out a feasibility study on the proposed Archers Post multipurpose dam, which if proved feasible, will generate electricity for the national grid. This will enable the power company to extend power supply in the districts within the vicinity of the dam as well as to other parts of the country throughout the national grid.

Mr. Leshore: Mr. Speaker, Sir, I would like to inform the Assistant Minister that in my Constituency, Isiolo North and most parts of Laikipia East there is no electricity. Uaso Nyiro River is one of the biggest rivers

in northern Kenya and a lot of its water flows into the Indian Ocean. Could he tell us why the Government is not supporting Uaso Nyiro North Development Authority to put up a dam so that most of the residents in those districts can benefit from electricity and irrigation?

Mr. Manga: Mr. Speaker, Sir, I have already said in the last part of my answer that the Ministries of Energy and of Rural Development are finding a way of developing a generation project that will serve that area.

Mr. Sambu: Mr. Speaker, Sir, the northern parts of Kenya are quite behind in rural development. Could the Assistant Minister tell the House which parameters are used to prove the viability of a project like that? The Uaso-Nyiro River is just like any other river which has dams. It is like Turkwel. What are the parameters of deciding whether a project is viable or not?

Mr. Manga: Mr. Speaker, Sir, I have not talked about the viability of a project. I have just talked about lack of power supply and that is why we are saying that we would like to develop---

Mr. Maitha: On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order address the Member of Parliament directly instead of addressing the Speaker?

Mr. Manga: Mr. Speaker, Sir, I thought that by facing the Member, he would get the answer properly. Nevertheless, I beg to say that it is not the criteria that matters. This is a national project and once the power is found, every area is entitled to the supply.

Mr. Kihara: Mr. Speaker, Sir, in the interest of the East African Regional Co-operation, I would like to ask the Assistant Minister whether consideration is being given to joint development of cheap hydro-electric power with places like Uganda and Tanzania, which is much cheaper than trying to harness these little streams in Kenya? It is being done in Zambia and Zimbabwe in River Congo. Why can we not, in the spirit of this East African Co-operation, develop cheap hydro-electric power along the Nile River, rather than harness these small streams in flat lands like the North Eastern Province? Can you confirm whether you are looking into that?

Mr. Manga: Mr. Speaker, Sir, with the current co-operation, this matter is in the agenda and it involves the three countries.

Mr. Shidie: Thank you, Mr. Speaker, Sir. If there is any Ministry that is marginalising the people of northern Kenya, it is the Ministry of Energy. We have the Turkwel Gorge. Today, the Pokots do not have electricity yet, the source of power is right in their home area. Areas along the Tana River have no electricity. To date, our people have not benefited from the Rural Electrification Programme. Could the Assistant Minister assure us that the Rural Electrification Programme will benefit those people in the rural areas, particularly the marginal areas who include the Pokots, Turkhanas and the Samburus?

Mr. Manga: Mr. Speaker, Sir, the Government has now developed an electricity master plan which includes every area. Depending on the availability of funds, this master plan will cover every area.

Dr. Leakey: Mr. Speaker, Sir, I would like to ask whether the Assistant Minister is aware and has within the master plan recognition of the fact that in northern Kenya, at Marsabit, there is a meteorological phenomenon that is unique in this part of the world, of a low level jet stream, and Marsabit Mountain would lend itself to substantially wind generating capacity which could provide solutions to some of the questions without drying-up some of the small rivers that are already in trouble?

Mr. Manga: Mr. Speaker, Sir, the master plan covers all these areas that the hon. Member is talking about. As I said, the criteria here is the availability of money.

Mr. Leshore: Mr. Speaker, Sir, you can see the way the Assistant Minister is answering the Question. It shows clearly that this Ministry is not concerned about those remote areas. When he is talking about Uaso-Nyiro, he is saying that they are trying to develop a master plan. It is not even in their priority. Mr. Assistant Minister, when are you going to put a dam along the Uaso-Nyiro River as requested by the Uaso-Nyiro North Development Authority?

Mr. Manga: Mr. Speaker, Sir, it is a priority because, if it were not then the money that is being spent to carry out the feasibility study would not be spent, but already there is something going on with the project.

Question No.381

REVENUE FROM MOUNT LONGONOT
NATIONAL PARK

Mr. Kihara asked the Minister for Natural Resources:-

(a) whether he could confirm whether any revenue is remitted to the Kenya Wildlife Service from the Mount Longonot National Park, and;

(b) If so, how much money has been collected per year in the last five years

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

(a) Kenya Wildlife Service has been collecting all the park revenue accruing from the Mount Longonot National Park.

(b) The breakdown of gate fees collections from Mount Longonot National Park from 1993 to 1997 is as follows:- In 1993, Kshs524,219 was collected. In 1994 Kshs696,510; 1995 Kshs751,672; in 1996 Kshs867,841 and in 1997 Kshs919,486 was collected.

Mr. Kihara: Mr. Speaker, Sir, the written answer that I have from the Ministry has got those figures, but it does not show whether they are in Kenya shillings, cents or pennies. Be that as it may, how much of this money has gone back to the citizens who protect the fauna and flora of that National Park?

Mr. Lengees: Mr. Speaker, Sir, when this money goes to the central Government, it is still Kenyan money. The Kenya Wildlife Service has also come up with a procreative programme that funds community projects approved by the DDCs and maybe by the hon. Member for that area. The projects normally funded by the KWS fall under two categories, one, enterprise project and two, social projects. Enterprise project is a money generating project for the local people there while social projects include building of schools, dips and dispensaries.

Mr. Kihara: Mr. Speaker, Sir, I am also sure my friend, Dr. Leakey, will confirm that these animals, even those at Longonot National Park, are very clever. They are not majimboists. They move right across to Maasai Mara and all over the place. Narok County Council is one of the richest county councils in the country and it gets money from the animals which are being reared in the Mount Longonot National Park. Could the Ministry consider sharing this money accruing from the Narok County Council with the neighbouring county councils like Nakuru and Ole Kajiado because these are the same animals that are looming all over the place? Dr. Leakey will confirm that this is a fact.

The Assistant Minister for Finance (Mr. Arap-Kirui): On a point of order, Mr. Speaker, Sir. Is the Member in order to suggest that some people in this country who may be majimboists are not clever? That is exactly what he said.

Mr. Speaker: What did he say?

The Assistant Minister for Finance (Mr. Arap-Kirui): He said that these animals are clever, they are not like majimboists.

Mr. Kihara: Mr. Speaker, Sir, I said that these animals are very clever. I did not say that majimboists are not clever. They may be clever, but I said the animals are very clever, they are not majimboists.

The Assistant Minister for Finance (Mr. Arap-Kirui): Mr. Speaker, Sir, he is not answering the question because he did say that the animals are clever and are not like majimboists.

Mr. Speaker: Order! Order! Order! Are majimboists another form of animals that I do not know of? Proceed.

The Assistant Minister for Natural Resources (Mr. Lengees): Mr. Speaker, Sir, when the Member talks about the Ole kajiado and Narok County Councils, he should understand that the Narok County Council gets money because the national park is a trust-land. Secondly, even the national park at Longonot has been quite generous because they have initiated projects through the DDCs, of which the hon. Member is a member.

Question No.294

SUB-DIVISION AND ALLOCATION OF NGONG FOREST

Mr. Mwiraria asked the Minister for Natural Resources what plans he has to sub-divide and allocate parts of the Ngong Forest between Forest Edge Road and Otiende and Ngei estates.

The Minister for Natural Resources (Mr. F.P.L. Lotodo): Mr. Speaker, Sir, I beg to reply.

I have no plans to sub-divide and allocate parts of the Ngong Forest between Forest Edge Road and Otiende and Ngei estates. My Ministry does not deal with the sub-division and allocation of forest land. However, should the Government decide to allocate the land for other uses, the request will be reviewed based on environmental, social and economic considerations, among others.

Mr. Mwiraria: Mr. Speaker, Sir, I must say that I am horrified by the answer given by the Minister because of the untruth it contains. The Minister has already degazetted over 50 hectares of this land. Secondly, the Karengata Group has got a court injunction restraining the Ministry from excising this land for private development. Recently, I saw people demarcating the land. Is the Minister really sure that he has got the right answer to my Question?

Mr. F.P.L. Lotodo: Mr. Speaker, Sir, I would like to tell my former Permanent Secretary in the Ministry of Energy that it is true that a 53.68 hectares piece of land was degazetted. I do not give out Government land. I surrendered it to the Commissioner of Lands. I only degazette such land, but its allocation to, say, Mr. Mwiraria, Mr. Kaparo or Mr. F.P.L. Lotodo is done by the Commissioner of Lands.

(Laughter)

Mr. Mwiraria: Mr. Speaker, Sir, maybe it is true that the Minister does not carry out the sub-division and allocation of Government land, but he certainly degazetted the land when he very well knew that it was going to be sub-divided and allocated for private development. Could the Minister tell this House what these 53.68 hectares are going to be used for?

Mr. F.P.L. Lotodo: Mr. Speaker, Sir, I surrendered the 53.68 hectares to the Commissioner of Lands for public use. Whether the land is going to be a cemetery, a school or a dispensary is none of my business.

Prof. Anyang'-Nyong'o: On a point of order Mr. Speaker, Sir. The Minister is well aware that the issue of land is very sensitive in Kenya. In Nairobi the matter touches Karura and Ngong Forests.

If the Minister can accept that he surrendered that part of Ngong Forest for some purposes, is he in order to fail to entirely answer hon. Mwiraria's Question in its entirety?

Mr. F.P.L. Lotodo: Mr. Speaker, Sir, I do not know why in the first place I should have answered this Question. This is the second time in this Session I am answering it. I seek your clarification, Mr. Speaker.

Mr. Speaker: On the same subject, Mr. Lotodo?

Mr. F.P.L. Lotodo: Yes, Mr. Speaker, Sir.

Mr. Speaker: Mr. Lotodo, are you saying that this is the second time you are answering this Question on the allocation of part of Ngong Forest between Forest Edge Road and Otiende and Ngei estates?

Mr. F.P.L. Lotodo: Mr. Speaker, Sir, I am dealing with the same Question, although earlier it was asked by different hon. Members. The 53.68 hectares cover the same area.

Mr. Ndicho: Mr. Speaker, Sir, what happened is that this Question was brought before this House by hon. Muite, but on different area names. At that time, the Minister admitted that the land was given to army personnel. Is the Minister in order to exhibit ignorance of the fact that the Commissioner of Lands requested him to degazette the land which falls under his Ministry? The Minister did this without asking: "Why are you telling me to degazette this land." I am worried that next time he will be asked to surrender his wife! Is he not going to ask why his wife is being taken away?

Mrs. Ngilu: On a point of order, Mr. Speaker, Sir. Is it in order for the hon. Ndicho to talk about a wife as if she is a property of the Minister? Can somebody's wife be a property? Are we jealous?

(Laughter)

Mr. Ndicho: Mr. Speaker, Sir, I apologise to--- At no one moment did I say that the wife of hon. Lotodo is his property. I know that the wife of hon. Lotodo is his partner, but---

Hon. Members: Apologise, Mr. Ndicho!

Mr. Ndicho: I have got nothing to apologise for!

Mr. Speaker: Hon Ndicho, hon. Ngilu did not ask you specifically about the Minister's wife. She raised a very salient question, namely whether a wife is property or not? That is what she is worried about.

Mr. Ndicho: On this issue, Mr. Speaker, Sir, I must admit that my wife is my property.

(Laughter)

Mrs. Ngilu: Mr. Speaker, Sir, hon. Ndicho's wife is not certainly in this House, but I do know that she could only be his wife but never his property.

Mr. Munyasia: On a point of order, Mr. Speaker, Sir. When a man dies in my community we count his property, and we always start with the wife.

(Laughter)

Mr. Mwiraria: Mr. Speaker, Sir, coming back to my Question, the Minister gave environmental, social and economic reasons for degazetting Ngong forest land. Could he tell the House the criteria he used in

degazetting the 53.68 hectares of land?

Mr. F.P.L. Lotodo: Well, that was the amount of acreage required by the Commissioner of Lands from the existing forests and I was told it was going to be for public use.

(Loud consultations)

Mr. Speaker: Order! Order! Mr. John Munyes Kiyonga!

QUESTIONS BY PRIVATE NOTICE

SECURITY RISK POSED BY KIBES SPLA CAMP

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

(a) Is the Minister aware that Kibes Sudanese People's Liberation Army (SPLA) camp, situated 40 kilometres inside the Kenya border is posing a great security risk to Kenyans?

(b) If the answer to "a" above is in the affirmative, what circumstances led to the establishment of this camp inside Kenya?

The Minister of State, Office of the President (Maj. Madoka): Mr. Speaker, Sir, I beg to reply.

(a) I am not aware of the existence of an SPLA camp inside the Kenyan border. Arising from that, therefore, part "b" of the Question does not arise.

Mr. Kiyonga: Mr. Speaker, Sir, I will use my colleagues words. Now that you are aware---

Hon. Members: He is not aware! You have made him aware!

Mr. Kiyonga: He should be aware. He should believe what I am telling him because I come from that area. This camp is five kilometres from a border town called Lokichogio. It is actually 40 Kilometres inside Kenya and five Kilometres away from Lokichogio Town. We are facing numerous problems in this town. I am sorry to say this because I do not know how a decision like that one can be made by this Government. A camp like that one which is encouraging the Toposa, they might not be doing something bad, I do not know because I am not after change. Let me inform the House because it is good to---

Mr. Speaker: Order! You ask your question; it is question time.

Mr. Kiyonga: My question is: Can the Minister tell this House why the Toposa in this camp are actually killing my people and why they have stopped us from grazing within this area? After all, this is Kenya.

Maj. Madoka: Mr. Speaker, Sir, as I said I am not aware of the existence of this camp and therefore,---

Mr. Kathangu: On a point of order, Mr. Speaker, Sir. If the Minister is not aware of this, and knowing that the SPLA is very active around the border of this country and Sudan, could he therefore go out there, investigate and bring results to this House?

Maj. Madoka: Mr. Speaker, Sir, if any evidence is brought to us, we will certainly look into it and see how best it can be handled.

Mr. Kiyonga: I do not know why this issue has not come to the Minister's notice. I have discussed it with the Lokichogio DO, the Turkana DC and they are not aware of this decision. They do not know the reason why this camp should not be transferred from where it is to the Sudanese border because the Sudanese people who inhabit it are causing problems to the Government. They killed someone the other day. I was in a rally on 1st July with hon. Ewaton Achuka and they killed someone inside the camp. They walked inside the GSU camp and killed somebody there. We cannot allow this to happen to our people! I will take you to this camp tomorrow if you want. It is five Kilometres inside Kenya. It is not a refugee camp.

The Minister for Natural Resources (Mr. F.P.L. Lotodo): On a point of order, Mr. Speaker, Sir. We have Kakuma Refugee Camp which is full of Sudanese people. Could it be the same camp he is talking about or is it a different one?

Mr. Speaker: Is it a refugee camp we are talking about?

Mr. Kiyonga: Kakuma is far inside Turkana. From Kakuma you go 90 Kilometres to Lokichogio Town. From Lokichogio town to the border which is near Narok, it is 40 Kilometres. But this camp Kibes is five Kilometres from Lokichogio town. I can take the Minister there tomorrow if he is ready.

Mr. Ita: On a point of order, Mr. Speaker, Sir. This is the second time I have heard this kind of reply, that a Minister is not aware when a Member raises an issue. I am wondering whether the Minister is telling this House that he is not aware or that he has not investigated the matter. To me it is absurd! I cannot differentiate

between the two. Is it because the Minister has not investigated or he is not aware?

An hon. Member: He is hiding something.

Maj. Madoka: Mr. Speaker, Sir, it has been investigated and I am certainly not aware of an SPLA camp.

Mr. Speaker: Next Question, Mr. Ojode!

RECONSTRUCTION OF RODI KOPANY-KARUNGU ROAD

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

(a) Is the Minister aware that the newly tarmacked Rodi Kopany-Karungu Road (C 18) has developed pot holes barely six months after its completion?

(b) How much money was allocated for the tarmacking of the entire Road?

(c) If the answer to "a" above is in the affirmative, could the Minister order the contractor to reconstruct the said road immediately and what is the Government's position on the contractors who perform below expected standards and specifications?

The Minister of Public Works and Housing (Mr. Kones): Mr. Speaker, Sir, I beg to reply.

(a) I am aware that Rodi Kopany-Karungu Road has developed some small potholes which were caused by the *El Nino* induced rains.

(b) The construction of the Rodi Kopany-Karungu Road cost Kshs.988,649,294-18. The Road is 50 Kilometres long.

(c) The Ministry has already instructed the contractor to carry out the necessary repair works on the damaged section. The contractor did not perform below expected standards and specifications since the damage was purely due to the abnormal *El Nino* induced rains. Any contractor whose performance may be proved to be below the expected standards and specifications will be dealt with in accordance to the agreement signed between themselves and the Government. Such contractors can also be blacklisted so that they do not benefit from Government contracts in future.

Mr. Ojode: It is a big joke for a whole Cabinet Minister to be misled like this. This is the only tarmacked Road which I use to Ndhiwa Constituency. It is ridiculous for a Cabinet Minister to say that this Road has been destroyed by the *El Nino* induced rains. It is not the *El Nino* induced floods. This road developed pot holes before the *El Nino* induced rains came around!

Mr. Speaker: Order! Mr. Ojode, ask your question.

Mr. Ojode: Mr. Speaker, Sir, you know that we are co-operating.

(Laughter)

I wish the Minister could go to this road C 18 and see for himself what is actually on the ground. This road was constructed below the expected standards and the contractor is TM and AM Construction. The contractor compromised the engineer who was doing this job and that is why we are having this problem. What is the Minister going to do so that this contractor can go back to the site not only to repair the potholes but to carry out complete re-carpeting of the whole road for 50 Kilometres?

Mr. Kones: Mr. Speaker, Sir, I have already said that the contractor has already been instructed to go back and repair what was damaged by the *El Nino* induced rains, but if for any reason the Member feels very strongly that the damage was done before the *El Nino* induced rains and he has got some documentary evidence to that effect, I will be quite happy to take up that one.

Mr. Sungu: Thank you very much, Mr. Speaker, Sir. Since I come from that area, I am well aware of the kind of roads that we have there. Is the Minister aware that the Ahero-Oyugis-Kisii Road which was constructed at the same time as this road is in a better shape than the road that we are talking about? Is he further aware that roads in other parts of the country are in better shape? Could the Minister, therefore, consider blacklisting TM and AM Construction Company for constructing poor roads in Nyanza, in addition to the other one which they constructed in our place?

Mr. Kones: Mr. Speaker, Sir I have already said that I have really nothing strong against the contractor. But if the Members who have been affected by what they call "sub-standard work" could give us some documentary evidence, I am quite ready to take up the matter.

Mrs. Ngilu: Mr. Speaker, Sir, I would like to correct the Minister because I travelled on that Road before the *El Nino*

induced rains started.

Hon. Members: What were you doing there?

Mrs. Ngilu: I was campaigning and, therefore, I know certainly that, that road was not destroyed by the *El Nino* induced rains. Could the Minister tell us whether he has already blacklisted this particular contractor?

Mr. Kones: Mr. Speaker, Sir, to blacklist a contractor is a remedial action against such non-performing contractors. I think we should be able to collect some evidence which would lead us to make such a decision. If hon. Members are willing to co-operate with my Ministry, and give us evidence to the effect that the job was destroyed before the *El Nino*, I am ready to discipline the contractor. But if there is no evidence, what will I do?

Mr. Ojodeh: Mr. Speaker, Sir, if the Minister cannot consider blacklisting the TM and AM Construction Company, then it is true and evident that the directors of the company are seated in the Front Bench. That is why the Minister cannot blacklist the contractor. The Government cannot lose Kshs1 billion for the construction of a road which was not done according to the required standards. Could the---

(Loud consultations)

Mr. Speaker: Order! There is no need to generate heat about the road.

Mr. Sambu: On a point of order, Mr. Speaker, Sir. Hon. Ojodeh alleged that the directors of TM and AM Construction Company are seated here. Could he name them or withdraw the allegation?

Mr. Ojodeh: Mr. Speaker, Sir, there is no need of naming the directors of the company since they know themselves. They are seated here! Nevertheless---

(Loud consultations)

Mr. Speaker: Order! To the best of my ability, it is not a crime to be a director of a lawful company. Therefore, I see no reason why hon. Members are getting excited.

Dr. Ochuodho: The road in question is in my Constituency. Only last week, our new DC toured the area and expressed great concern about the road. It should have been done from Karungu up to Oyugis. But even before the road was completed, the sections that were built first have already crumbled. I can vouch that the potholes were there long before the *El Nino*. Could the Minister tell the House what he will do to complete the road, and repair the sections that are damaged?

Mr. Kones: I have already answered that. I have said that the already damaged section will be repaired. The contractor has been instructed accordingly.

(Several hon. Members interjected)

Mr. Speaker: Order! The time allocated for Questions has already passed. But I am mindful of the fact that there are two Questions by Private Notice. Proceed, Dr. Kulundu!

AUTHORITY FOR OZONE TREATMENT
BY MR. WAINWRIGHT

Dr. Kulundu: Mr. Speaker, Sir, I beg to ask the Minister for Health the following Question by Private Notice.

(a) Under what circumstances was Mr. B. Wainwright *alias* Dr. Stone allowed to practice medicine in this country?

The Minister for Health (Mr. Kalweo): Mr. Speaker, Sir, I beg to reply.

Mr. Basil Wainwright *alias* Dr. Stone was never allowed to practice medicine in this country. He is not even a registered medical practitioner in this country. As hon. Members are aware, Mr. Wainwright efforts to set up a Pleo-Atomic Aphresis treatment centre and use of "ozone" was on the understanding that proper scientific procedures would be followed, and registered medical practitioners and research institutions would be involved.

This was flouted and Dr. Wainwright went ahead to treat patients using the untested methodologies.

Dr. Kulundu: As an earlier hon. Member said, I am also shocked beyond repair to hear that Dr. Stone was never allowed to practice medicine in this country and yet we know that for the past two years, he has allegedly treated 96,000 Kenyans. I am shocked beyond repair because not only has this quack been allowed to practice medicine in this country, but he is also a known criminal.

What scientific procedure does the Ministry of Health have in place to register medical practitioners, new drugs and new procedures?

Mr. Speaker: Dr. Kulundu, you being a doctor, are the procedures not in the Act?

Dr. Kulundu: But I want the House to know the procedures!

Mr. Speaker: Order! We do not duplicate business. That is why we put a set of the laws of Kenya here. Any Member who would like to know the provisions of any sections of the law is welcomed to come and consult here. Please ask a factual question and not a legal one.

Dr. Kulundu: Is it in order for the Ministry of Health to allow a quack to practice medicine without a licence?

Mr. Kalweo: Mr. Speaker, Sir, he was not allowed to practice. What happened is that he came to the Ministry and alleged that he could do some research. He was told to submit his proposals. He did not do that and instead, he just went ahead and started treating people.

Prof. Anyang'-Nyong'o: On a point of order, Mr. Speaker, Sir. Is the Minister in order to say that Mr. Wainwright went to the Ministry of Health to present a research proposal, when we know that research proposals are presented at the Office of the President. Is the Minister also in order to say so, when we know that Dr. Mwanzia, who was the then Director of Medical Services, did permit Mr. Wainwright to go on with his practice?

Mr. Kalweo: Mr. Speaker, Sir, I think the hon. Member would have waited since I was coming to his point. When he reported that, it is a well known that an outsider must present his proposals to the Office of the President. The Office of the President refers the matter to relevant departments and so on. But in this case, that is exactly what he was told to do and he disappeared. Subsequently, we closed all the areas where he was performing his practice, and right now, I think the arm of the Government is looking for him.

Dr. Kituyi: Mr. Speaker, Sir, some time this morning, I did raise a concern that the Minister had promised a statement to this House two weeks ago. He proceeded to issue his statement about Mr. Wainwright outside the House. But be that as it may, could the Minister explain under what circumstances an Assistant Minister, together with a favourite presidential priest, took Mr. Wainwright to State House, to which the decision to give him authority to experiment in Kenya was given, without involving the competent authorities in clearing research findings?

Mr. Kalweo: Mr. Speaker, Sir, I am not aware whether Dr. Wainwright went to State House. The matter before this House is whether he is allowed to practise in this country and I say no.

Mr. Raila: Mr. Speaker, Sir, I think the Minister is not telling the House the whole truth. Ozone treatment is a very old technology and it was developed in Germany, way back before the Second World War and it is true that ozone actually works in certain circumstances; but it has not been proved effective against HIV. Could the Minister confirm or deny that Mr. Wainwright has a programme that has been running in with the Department of Defence and that there are in fact certain reports that are supposed to have been published but the Government is withholding them? Could he confirm or deny? If that is the case, why was that done?

Mr. Kalweo: Mr. Speaker, Sir, I am not denying or accepting. These are speculations.

(Several hon. Members stood up in their places)

Dr. Kituyi: Mr. Speaker, Sir, you notice that this matter is of grave concern to hon. Members, particularly, in a country with so much anxiety about the possibilities of hope for those who are HIV positive. The Minister is supposed to have been doing some research. He does not know how Mr. Wainwright got permission to start experimenting on health in Kenya, he does not know which persons have been treated, he does not know where the equipment is and he is the Minister for Health. Would it not be fair that you oblige this Minister, at the earliest possibility, preferably tomorrow, to come before this House; after he has investigated specific matters we have raised with him about how this conman has messed up the lives and fortunes of Kenyans? Instead of standing and explaining to the House, he is confessing ignorance about everything!

An hon. Member: He ought to resign!

Mr. Kalweo: Mr. Speaker, Sir, just recently when there was a public outcry, I moved ahead and stopped this man from operating in this country. As I am talking here now, we have closed down some clinics and have even gone to the court to get a warrant of arrest and when this conman realised what we were doing, he disappeared. I know the arm of the Government is somewhere now looking for him. When he begun, he was given a protocol to follow which he did not comply with. This is why he went and started treating people underground.

Mr. Speaker: Mr. Munyao's Question now.

Mrs. Ngilu: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: Order! Order! Mrs. Ngilu! I know the problem of AIDS in this country and I know it is terrible for a fellow to conn Kenyans out of that fear and I think, in consideration of that, I have given 12 minutes trying to let the House get from the Minister what they can about this issue.

An hon. Member: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: Order! I am not likely to give the whole day. Mr. Munyao!

PAYMENT OF TERMINAL BENEFITS
TO LAID OFF EMPLOYEES

Mr. Munyao: Mr. Speaker, Sir, I beg ask the Minister for Labour following Question by Private Notice.

(a) Is the Minister aware that the following companies belong to one group:- Security Holdings; Simba Security Limited; House Guards Limited and Security Express Limited?

(b) Is he further aware that on 31st May, 1998, the four companies laid off a total of 150 employees and that they are in the process of laying off another 150 employees without paying them their terminal dues?

(c) If the answer to "a" and "b" above are in the affirmative, could the Minister, as a matter of urgency order that these employees be paid their dues and returned to work immediately?

The Minister for Labour (Mr. Ngutu): Mr. Speaker, Sir, I beg to reply.

(a) I am aware that all the four security firms belong to one corporate group.

(b) I am further aware that due to financial distress, 150 employees were declared redundant on 31st May, 1998. Their terminal dues are still outstanding. However, the company has no intention laying off another 150 employees as alleged.

(c) The terminal dues could not be paid immediately because the Kenya Union of Commercial, Food and Allied Workers had entered into an agreement with the employer to pay the benefits in three instalments over a period of five months. Nonetheless, steps are being taken to ensure the payment of the benefits. Negotiation initiated by the Ministry on 21st July, 1998, between the employer and the Kenya Union of Commercial Food and Allied Workers are at an advanced stage to speed up the release of the entire terminal dues.

Mr. Munyao: Mr. Speaker, Sir, I thank the Minister for his concern, but knowing very well that the kind of people who are affected here are the lowest paid and they do not get the money which can take them over a month--- These people were told that they would be paid in June and again on 18th September, and the last payment on 30th November this year. Is the Minister satisfied and could he force his Ministry to discuss with the companies to make sure that these employees are paid because right now they have got children to pay school fees, feed and house rent to settle and they cannot even feed themselves?

Mr. Ngutu: Yes, Mr. Speaker, Sir, I know that these people receive very low wages and every effort is being made to ensure that they receive their dues as soon as possible.

Mr. Munyao: Mr. Speaker, Sir, "as soon as possible" in this House is open-ended and the Minister knows that. Could the Minister specifically tell this House when these employees will be paid because they have gone for two months without salaries? Their next payment is in September and November. Could he specifically tell us when these people will be paid?

Mr. Ngutu: Mr. Speaker, Sir, I wish to inform the House that there was some agreement between the Union, the employers and ourselves. The initial joint meeting held on the 21st July, this year, resolved that the employer should produce a copy of computer printout of the employees' dues. It was further agreed that the management would consult the bankers to seek an overdraft to settle the outstanding dues on or before the 31st August this year. The next meeting is scheduled to take place on 4th August to review the progress.

Mr. Speaker: This marks the end of Question Time.

Mr. Munyao: Just one more, Mr. Speaker, Sir.

Mr. Speaker: Sorry, now, we must go to the other issue now, Question Time is up.

Mr. Munyao: Mr. Speaker, Sir, I have stood on a point of order after you have stopped me from asking the final question. However, I thank you. Through the Chair I am requesting the Minister of State, Office of the President in charge of internal security---

*(Messrs. Wanjala and Mr. Nyangwara were
applauded as they entered the Chamber and
sat together on the Opposition Benches)*

Mr. Munyao: Mr. Speaker, Sir, I requesting the Minister of State, Office of the President in charge of Internal Security to listen to what I am saying and make a Ministerial Statement which we hope will cool down what is happening.

Mr. Speaker, Sir, yesterday afternoon, you allowed a Motion of Adjournment to discuss the problem which had been caused at Kigali area in the City. This Motion was discussed here, although the Government side tried to be provocative. Those kiosk owners knew that they were covered by a court order which had been legally issued on 24th July to extend their stay in that area up to 23rd September, 1998. In their minds, they know that they are supposed to be there---

Mr. Speaker: Could you come to the point now, Mr. Munyao?

Mr. Munyao: Mr. Speaker, Sir, they have started reconstructing that area because it is legally due to them. This afternoon as I talk, there are other communities who have gone to the extent of burning the newly constructed structures, in the face of the police. Muslims of the Jamia Mosque are trying to agitate those people into a fight. If the Office of the President does not take direct action to stop what is happening and provide enough security something bad is likely to happen between now and tomorrow. I am asking the Minister of State, Office of the President to direct that the security agencies take action to cool what is happening there now.

Mr. Speaker: Very well! Would the Minister like to comment?

The Minister of State, Office of the President (Maj. Madoka): Mr. Speaker, Sir, when the hon. Member mentioned it to me as I came in, I directed the police to go there. I will find out the latest position. But we have directed that they should try and prevent any bad incidents occurring.

Mr. Munyao: Mr. Speaker, Sir, when the fight erupted, the police officers were all around and were not helping the situation. Could the Minister assure us that they are going to intervene?

The Minister of State, Office of the President (Maj. Madoka): Mr. Speaker, Sir, that is just what I have said I did when he told me. I have already directed that the Nairobi police boss goes there to make sure that something is done.

Mr. Speaker: Next Order!

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

[Mr. Speaker left the Chair]

IN THE COMMITTEE

*[The Temporary Deputy Chairman (Mr. Imanyara)
took the Chair]*

THE KENYA COMMUNICATIONS BILL

(Clauses 2, 3 and 4 agreed to)

Clause 5

Mr. Anyang'-Nyong'o: Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 5.4(b) be deleted and the following words be inserted in place thereof: "Any such policy guidelines, rules and regulations issued by the Minister shall maintain the role of the Commissioners provided in Section 23(2) of this Act and no monopoly or duopoly telecommunication operator licences to run a telecommunications system or provide any telecommunications services in any region shall be granted by the Minister or the Commission".

Mr. Temporary Deputy Chairman, Sir, in proposing this amendment, to be in line with the purposes of the Bill as enunciated in Clause 23.2(b):-

"The purpose of the Commission is to maintain and promote effective competition between persons engaged in commercial activities connected with telecommunications services in Kenya, in order to ensure efficiency and economy in the provision of such services, and to promote research and development in relation there to".

Mr. Temporary Deputy Chairman, Sir, if we include among the Objects and Purpose of the communications, Clause 5.4(b) as I propose it, then it will in concert and will enforce the purposes for which the Commission is established, as I have indicated.

(Question of the amendment proposed)

The Minister for Transport and Communications (Mr. ole Ntimama): Mr. Temporary Deputy Chairman, Sir, on Clause 5, the phrase "general or specific direction" appearing in the Sub-clause 4(b) is wide enough to include all the characteristics envisaged by the proposed amendment. The Bill requires the Commission to facilitate the full development of composition among licensee. This precludes the encouragement of monopoly.

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Chairman, Sir, while I give due respect to the Minister's opinion, you realise that when this Act comes into force, it will be implemented by different boards from time to time. Clause 4(b) leaves a lot of discretion on the part of the Minister. It states: "Any general or specific directions given to the Commission by the Minister".

Now, unless we give the Minister some god-given powers that he will always remember, that the purposes as I mention them must actually be fulfilled in the performance of the board's functions, then I think, the House and indeed the nation is much better of if this is specified in Clause 5.4(b) as I have proposed it. In any case, this is an addition to the existing Bill and does not in any way distract the sense of purpose that the Minister is trying to indicate in Sub-clause 4(b).

Mr. Raila: Mr. Temporary Deputy Chairman, Sir, I wholly support the proposed amendments, because the problem we have had is abuse of discretionary powers; powers which are left solely at the discretion of the Minister. That is why we have had problems. If there is no sinister motive, I see no reason why the Minister cannot accept this amendment which is specific and disallows monopoly or duopoly. I think the amendment will, in fact, enable the Minister to implement the spirit and the letter of the Act more impartially.

Mr. Keriri: Mr. Temporary Deputy Chairman, Sir, I would like to support the amendment. When we say the Minister can give specific directions, he can give any directions, including asking the Commission to allow a monopoly or anything else that may cause an adverse effect on the policies this House wants to be followed. The amendment proposed by hon. Prof. Anyang'-Nyong'o tries to strengthen the position we are trying to establish. Let us face it. It is not likely that hon. ole Ntimama will forever remain the Minister for Transport and Communications. Another reckless Minister may be appointed. He may not be as cool as hon. ole Ntimama in that position. If we want to wreck this country by establishing something wrong, we can do it. So, we are trying to foresee a future which should be taken care of. I am hoping that the Minister can agree to this amendment which does not weaken the Bill, but instead, makes it better.

*(Question, that the words to be left out be left out,
put and agreed to)*

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

(Clause 5 as amended agreed to)

Clause 6

The Minister for Transport and Communications (Mr. ole Ntimama): Mr. Temporary Deputy Chairman, Sir, on representation related to consumer interests, it is not advisable to appoint interested persons to the Board. In fact, the Bill provides that any member of the Board who has an interest in the matter before the Board is disqualified from taking part in the deliberations.

The Temporary Deputy Chairman (Mr. Imanyara): Mr. Minister, we are on page 206, amendments.

The Minister for Transport and Communications (Mr. ole Ntimama): Mr. Temporary Deputy Chairman, Sir, I wish to move that clause 6 be amended by inserting the words "and broadcasting" immediately after the word "information" appearing in paragraph (f).

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Minister, let us deal with "a" first. You are on "b".

The Minister for Transport and Communications (Mr. ole Ntimama): I beg your pardon.

The Temporary Deputy Chairman (Mr. Imanyara): You can do both, but let us first do "a".

The Minister for Transport and Communications (Mr. ole

Ntimama): Mr. Temporary Deputy Chairman, Sir, I beg to move that Clause 6 be amended in subclause (1) -

(a) by deleting the word "President" appearing in subparagraph (b) and inserting "Minister";

(b) by inserting the words "and broadcasting" immediately after the word "information" appearing in paragraph (f);

Mr. Sungu: Mr. Temporary Deputy Chairman, Sir, I will support that amendment on the basis that, there has been too much power vested in one authority and for us to liberalise, we need to diversify those powers to persons who can give us the services that we require. The appointment of Chairman and directors must be vetted properly and we must make sure that the Minister concerned will appoint people of integrity, experience and qualifications that are necessary for that kind of work. In fact, I would have loved to make an amendment to that, but because I ran out of time, I cannot make an amendment because, actually it should be done in this House. It is now a known fact that, people appointed to positions of responsibility do not do their jobs properly and that is why they have had problems in the Kenya Posts and Telecommunications Corporation. This is because, sometime back, they sent away 50 year old people and those were people with proper qualifications and experience and they could have run the organisation properly; we have now had problems in the organisations because of those people who have now been forced to retire.

Mr. Raila: Mr. Temporary Deputy Chairman, I think there is an omission in subparagraph (a) by inserting the word "President" appearing in subparagraph (b). I thought it should be subparagraph (a) and (b).

The Temporary Deputy Chairman (Mr. Imanyara): Hon. Ntimama, do you have anything to say on that? I think we are only amending (b) and leaving (a).

*(Question, that the words to be left out be left out,
put and agreed to)*

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

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Chairman, Sir, I propose that Clause 6(1)(g) be deleted and the following be inserted in place thereof:-

"At least five other persons not being public officers, appointed by the Minister by virtue of their knowledge or experience in matters relating to postal services, telecommunications, radio communications, commerce and related consumer interests. The Minister shall have due regard to registered societies representing such interests in exercising his powers under the Sub-Section."

Mr. Temporary Deputy Chairman, Sir, I would like to clarify this. The clause says that "the Minister shall have due regard"; it does not say that the Minister shall appoint to the Board, members representing this society. All we are trying to say is that in making this appointment, the Minister should be conscious of the fact that it is very difficult to identify people with knowledge and experience without consultation with those professional societies which have been in constant contact with these people. I would not like the Minister to misunderstand the amendment of the clause as meaning that he is obliged to appoint members of these societies to the Board. The import of the amendment is to make him have due regard so as to consult; so as to make sure that the appointments that have been made here are, indeed, in full consultation with these people. He need not necessarily take proposals from them. But "due regard" means that the input and the involvements of this constituency is important in making the Board legitimate and, making sure that the right personnel get into that function.

Mr. Chairman, Sir, that is the import of the amendment.

(Question of the amendment proposed)

The Minister for Transport and Communications (Mr. ole Ntimama): Mr. Temporary Deputy Chairman, Sir, this is rather a narrow and specialised field. Although, normally, we would, probably, encourage the views of the people from the rural areas, especially concerning the spread of the network to the rural areas; but, when it comes to the Board, it will, definitely be required that it is composed of specialised people in certain fields, especially in the field of communications. Such people should be the Board members whenever possible.

So, we reject that amendment.

Mr. Raila: Mr. Temporary Deputy Chairman, Sir, it defeats me that the Minister could reject such a reasonable amendment. I spoke at length about this particular Clause. Past experience has shown us that the Minister or the Government has never had respect for the professions. We are dealing here with a very specialised subject. We would like to see people who are going to sit on the Communication Board to be people who are competent, knowledgeable and qualified. Kenya has these people. The Government has never respected professionalism. That is why we have mediocrity leading our State institutions. This is why we are asking the Minister to consult with the professionals. We have, for example, the Institution of Engineers of Kenya, who will tell the Minister of Kenyans who are qualified in telecommunications.

Mr. Temporary Deputy Chairman, Sir, we have other institutions with which the Minister should consult. The Minister is trying to tell us that he is not willing to consult with qualified people. How then, is he going to recognise talent?

Mr. Temporary Deputy Chairman, Sir, I support the amendment.

The Minister for Transport and Communications (Mr. ole Ntimama): Mr. Temporary Deputy Chairman, Sir, hon. Raila Odinga was not there when I was moving the Bill. I made it specifically clear, especially in the Communications Commission of Kenya - and hon. Eng. Muriuki will bear me witness--- We will, really, make sure that those who will be in that Commission will be engineers with a bias in telecommunications, lawyers and such professionals. But what I do not want to see here is the consumer interest. This is because, it is very cumbersome; we do not know what these consumer interests are.

Eng. Muriuki: Thank you, Mr. Temporary Deputy Chairman. I think, here, we are not communicating. This is because the amendment is not asking the Minister to appoint somebody who has been nominated or whose name has been brought forward by any association. All the Clause is saying is that the Minister shall have due regard. Unless there is some other motives, I do not see why the Minister, even if the Clause was not there, should not have due regard to registered societies. I think, it will be only fair for the Minister to reconsider his view on this. Initially, I knew there was an amendment to sort of suggest that he must take names from some societies; but all we are saying is: "Give due regard to the existing societies, be they engineers' societies---." I hope the Minister will consider this.

Thank you.

The Minister for Transport and Communications (Mr. ole Ntimama): Mr. Temporary Deputy Chairman, Sir, I hope I am not bound by--- But, you know, the legal fraternity---

The Temporary Deputy Chairman (Mr. Imanyara): Order! Order! Prof. Anyang'-Nyong'o!

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Chairman, Sir, I was just going to point out to the hon. ole Ntimama that the substantial amendment, really, does not interfere with the previous one. Rather than say "not more than five other persons", we are saying "at least five other persons", which gives the Minister even more leeway in appointing members to the Board.

Secondly, the Minister has just referred to "related consumer interests". Related consumer interests are not in my amendment. They were in the original Bill. So, I do not understand why the Minister is now taking offence to "related consumer interests", which was on the original Bill. I think that was, indeed, his proposal, not mine. My proposal, really, in the amendment is purely to change "not more than five" to give the Minister more leeway. I was thinking that I was being very generous to the Minister by changing "not more than five", to "at least five other persons." This gives him much more leeway to get many more people from a wider constituency of consideration. Secondly, the substantial amendment that "the Minister shall have due regards to registered societies---" is, indeed, in the interest of the Minister who wants the professionals on his side. I really, do not understand why he should be negative about this. The Minister, really, wants the professionals on his side so that when he has made the appointments, the country will know that he gave due regards. He might not have done so. But if it is in the Act, it is good. I am quite sure that, as somebody was saying, hon. ole Ntimama may give due regard without even having it stated in the Act. But, another Minister may come in 10 to 20 years' time - this thing is being made for posterity - who may not know the original reasons which we considered in passing this Bill. So, I really think that this is a very fair and considerate amendment and, considering the information we have given the Minister, he should consider the issue rather generously.

Thank you.

The Minister for Transport and Communication (Mr. ole Ntimama): Mr. Temporary Deputy Chairman, Sir, I think, after consultation, we have accepted the amendment.

(Question, that the words to be left out be left out,

put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 6 as amended agreed to)

(Clauses 7, 8, 9 and 10 agreed to)

Clause 11

The Minister for Transport and Communications (Mr. Ntimama): Mr. Temporary Deputy Chairman, Sir, I beg to move that, Clause 11 be amended in sub-clause (1) by deleting the word "board" appearing in the second line and inserting the word "Commission".

(Question of the amendment proposed)

(Question, that the word to be left out be left out, put and agreed to)

(Question, that the word to be inserted in place thereof be inserted, put and agreed to)

Clause 11 as amended agreed to)

(Clauses 12, 13, 14, 15, 16, 17 and 18 agreed to)

Clause 19

The Minister for Transport and Communications (Mr. Ntimama): Mr. Temporary Deputy Chairman, Sir, I beg to move that, Clause 19 be amended in sub-clause (2)

(a) by inserting the words "and members of the Board" at the end of paragraph (a);

(b) by inserting the following new paragraph (f) -

"(f) for the payment of the salaries, allowances and other charges in respect of the staff of the National Communications Secretariat established under Section 84, and such other expenses of the Secretariat as may be approved by the Minister from time to time."

(c) by inserting the new paragraph (g) -

"(g) for the payment of salaries, allowances and other charges in respect of the staff of the Tribunal and such other expenses of the Tribunal as may be approved by the Minister from time to time."

(Question of the amendment proposed)

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Chairman, Sir, I would like to support the Minister's amendment, especially noting that before that amendment, there was no provision for the payment of the Tribunal, which is an extremely important body in the new Act. By inserting the new paragraph (g), the affairs of the Tribunal are covered, and I do hope that the Tribunal will be given sufficient resources to hear appeals expeditiously and make decisions that would make the sharing of telecommunication services in terms of investments and so on, equitable and fair.

(Question, that the words to be inserted be inserted, put and agreed to)

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Speaker, Sir, I would also like to propose that, Clause 19(1) be amended by deleting all the words after the word "prepared" appearing in the third line and inserting the following words in place thereof:-

"A list of activities to be undertaken in pursuit of its objectives laid down in Section 5(1) of this Act, and the resultant estimated revenue and expenditure of the Commission for that year, including the maintenance and operations of the Appeals Tribunal."

Mr. Temporary Deputy Chairman, Sir, I am proposing those amendments, because if the Bill is left as it is now, there is no direction in the law itself on how the Commission will be preparing its estimates. But as a mainlet, the estimates will be prepared on the basis of the activities to be undertaken in pursuit of the objectives laid down in Section 5(1). I think my amendment makes the instruction to the Commission much more precise in law and does not leave any guesswork regarding the preparation of the estimates, which is extremely important for parliamentary approval and subsequent auditing by the Auditor-General (Corporations) or the Controller and Auditor-General.

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and negated)

(Clause 19 as amended agreed to)

(Clause 20 agreed to)

Clause 21

The Minister for Transport and Communications (Mr. Ntimama): Mr. Temporary Deputy Chairman, Sir, I beg to move that, Clause 21 be amended in sub-clause (1) by deleting the words "in which trustees may for the time being invest trust funds, or in other securities."

(Question of the amendment proposed)

(Question, that the words to be left out, be left out, put and agreed to)

(Clause 21 as amended agreed to)

Clause 22

The Minister for Transport and Communications (Mr. ole Ntimama): Mr. Temporary Deputy Chairman, Sir, I propose that Clause 22 be amended by renumbering the existing clause as sub clause (1) and inserting the following new sub clause:-

"(2) The Minister shall lay the annual report before the National Assembly as soon as reasonably practicable after it is submitted to him."

(Question of the amendment proposed)

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Chairman, Sir, while I would like to support the amendment as proposed by the Minister, I hope he will support mine too in reciprocation, I am just wondering whether this is in line with the State Corporations Act because here it is stated:

"The Minister shall lay the annual report before the National Assembly as soon as reasonably practicable after it is submitted to him."

The State Corporation Act, if I remember well, specifies the time or period within which the Minister must lay the report after it has been given to him. I am not quite sure and I am seeking your guidance; maybe the Clerk might help us. I will definitely support the amendments, but I am just wondering about the wording and whether it will be in contradiction to the State Corporations Act.

The Temporary Deputy Chairman (Mr. Imanyara): Well, I think the provisions of the State Corporations Act override the provisions of this Act.

Mr. Raila: Mr. Temporary Deputy Chairman, Sir, I think by past experience, it is necessary really to put

a specific time limit because you remember that all the time the Attorney-General is telling us that the PAC and PIC reports are usually too late and that he is, therefore, unable to take action against offenders because the reports are usually two or three years late. That is why I was thinking that it would be prudent for the Minister to specify the time limit within which he must lay the report before the House.

The Minister for Transport and Communications (Mr. ole Ntimama): Mr. Temporary Deputy Chairman, Sir, I think it is reasonable and practicable, but I would say that as soon as the Minister receives the report in reasonable time, it will be laid before the House.

Mr. Raila: Mr. Temporary Deputy Chairman, Sir, I think we are really trying to help the Minister here because we are trying to tie the hands of his own officers that they must present a report to the Ministry within a specified period of time and, I think these are the amendments which the Minister should accept that there should be a specific period of time maybe three months after the end of the Financial Year.

Mr. Mwenda: Mr. Temporary Deputy Chairman, Sir, I think what hon. Raila is saying makes a lot of sense. This is because if you look at Clause 22 (a), it gives the Board three months to prepare and submit its report to the Minister. It is only fair that the Minister is also limited, otherwise, he may receive the report and sit on it for one to three years. So, if there should be a time limit, then make it a maximum of three months so that we can have the report presented before the National Assembly for perusal.

Mr. Raila: Mr. Temporary Deputy Chairman, Sir, Clause 22 as it is, actually very clear. It says: "The Board shall within three months after the end of each Financial Year prepare and submit to the Minister a report of the operations of the Board for the immediately preceding year".

Why is it that the Minister is introducing that new clause "as soon as practicable" and yet it is as soon as the Minister receives it within the three months after the end of the three years that that report should be tabled before the House? Why is the Minister trying to again bring something that is cloudy?

The Minister for Transport and Communications (Mr. ole Ntimama): Mr. Temporary Deputy Chairman, Sir, I do not see the problem really if the auditors will submit their reports in good time and if they will not have a lot of anomalies in their accounts, we can accept the three months period as well.

The Temporary Deputy Chairman (Mr. Manyara): Very well. There is a substantive law that deals with the period within which this must be tabled in Parliament. So, I will put the Question.

*(Question, that the words to be added,
be added, put and agreed to)*

(Clause 22 as amended agreed to)

Clause 23

(Question proposed)

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Speaker, Sir, I beg to move that Clause 23 (1) be amended by deleting the comma after the word "shall" appearing in the first line and deleting all the words after the word "shall" appearing in the first line and inserting the following words in place thereof.

"Formulate and implement methods, incentives and conditions to ensure availability of affordable telecommunication services particularly in emergency, public payphone and directory information services throughout Kenya."

Mr. Temporary Deputy Chairman, Sir, I am moving that amendment because---

The Temporary Deputy Chairman (Mr. Manyara): Prof, why do you not move the whole lot and then you go on.

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Chairman, I beg also to move that a new Clause 23 (f) be inserted as follows:

"The Commission shall cause to be published in the Gazette a non-discriminatory and fair criteria and requirements for issuing all licences to run any telecommunication services."

I am moving the first amendment because as the Bill presently stands it says: "The Commission shall so far as reasonably practicable ensure. I think the phrase "so far as reasonable practicable" is too vague and leaves room for too much subjectivity. This is one of the reasons why even in the Minister's previous amendments, I was saying "reasonable and practicable" can be subject to misinterpretation. I think that given the fact that the purposes for which the new Commission exists have been spelt out so clearly. This particular clause "for the provision of

telecommunication services" which is really the heart of the matter should not be open to any subjectivity in the decision making process nor should it allow vagueness. So, I think my amendment just removes elements of subjectivity in making decisions and removes the element of vagueness by just stating that "the Commission shall formulate and implement methods, incentives and conditions to ensure availability of affordable telecommunication services particularly emergency, public pay phone and directory information services throughout Kenya." I think it is in the interests of the Commission that we give them such definite laws.

Secondly, with regard to the other one that is the new Clause (f) that I am adding, I think it is important that the decisions of the Commission should be made available to the public and that the manner in which the decisions are made are also made available to the public in the gazette. That is why I am saying that the Commission shall cause to be published in the Kenya Gazette a non-discriminatory and fair criteria and requirement for issuing of all licenses to run the Communication Services.

Mr. Temporary Deputy Chairman, Sir, I hope the Minister will support my very objective amendment.

(Question of the amendment proposed)

The Minister for Transport and Communications (Mr. Ntimama): Mr. Temporary Deputy Chairman Sir, these particulars which the hon. Member is bringing out in the amendment are covered under Clause 23(1) and will be provided under the universal service. Section 25 has conditions for insurance of license which a licensee is required to fulfil and they are very clearly set out. So, the amendments are not going to be helpful.

Mr. Raila: Mr. Temporary Deputy Chairman, Sir, the first amendment on Section 23(a), as Prof. Anyang'-Nyong'o rightly said, is meant to be more specific. We have been saying that the rural areas of this country require telecommunication services. Telecommunication is not a luxury in our rural areas. We want to come up with an Act of Parliament which will almost make it mandatory for the services to be provided. That is the area where we need affirmative action in as far as telecommunication services are concerned. If we leave it entirely to the market forces to determine allocation of resources in this particular area, the rural areas of this country are going to suffer. That is the reason why we are saying these services should be made available and affordable. This is not covered under that very general clause which says: "--- as far as practicable." The second amendment which Prof. Anyang'-Nyong'o is trying to introduce is: "The Commission shall cause to be published in the Gazette a non-discriminatory and fair criteria and requirement for issuing of all licenses to run the telecommunications services."

Mr. Temporary Deputy Chairman, we said that we did not want so many things to be left to the discretion of the Commission because it is going to have a lot of powers, and past experience in this country has shown that those powers can be abused. That is why we want the Commission to run its affairs transparently. If they are rejecting an application for a license, let them publish it in the Gazette and give the reasons why they are refusing to give a license. Let them not just refuse because another fellow fears competition or has given some "chai" somewhere so that his competitor does not get a license. So, I see no reason as to why the Minister should oppose this very reasonable amendment.

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Chairman, I just want to add one thing. Some of these amendments we are proposing will be in the interest of the hon. Members of Parliament on the opposite side when they begin investing in this sector and become actually the people that derive benefits from a good law. I do hope that the Minister realises that. He said that he is opposing my new amendment on Section 23(f) because it is covered by the current Section 25. It is not! Section 25 is very good in laying down the licensing process. I do not oppose that. But what I am saying is that, that should be done under published criteria so that Section 23(f)---

The essence of the matter is in causing to be published in the Gazette non-discriminatory and fair criteria - the publication in the Gazette of those criteria. When you become a business person and you apply to the Commission for a license to operate a postal service, you will find that this provision will be very helpful to you; because you will be told where to get the criteria in a public document. So, I really think that there is no contradiction whatsoever. If anything, this Section 23(f) is reinforcing what is coming. Secondly, what hon. Raila has said is very important. The current Section 23(1) which you said covers my amendment, [**Prof. Anyang'-Nyong'o**]

does not because it says: "The Commission shall so far as is reasonably practicable ensure that they are provided throughout---" Even the English in Section 23(1) is wrong. Let me read it out to you. I am sure if we publish a law like this, the whole world will laugh at us. The paragraph says:-

"The Commission shall, so far as is reasonably practicable ensure there are provide throughout Kenya---"

Surely, Mr. Temporary Deputy Chairman, Sir, this is terrible English. This cannot be law. My

amendment was to help the Minister to speak some English in the law. If he rejects my amendment, this will never become law. I think my amendment makes the law much more precise in good English that every Kenyan will understand and that which will be respectable internationally. So, I would really leave this House a very sad man if the Minister insists on the present formulation of the law as opposed to mine which was trying to help the matter.

Mr. Mbela: Mr. Temporary Deputy Chairman, I find the proposal of the amendment to insert that new Section 23(f) to be in conflict with the normal practice. The Commission will not be making regulations. It is the Minister who makes regulations for enforcement by the Commission. Besides that, I do not claim to know as much English as Prof. Anyang'-Nyog'o, but it sounds negative when we say: "The Commission shall cause to be published in the Gazette a non-discriminatory and fair criteria---" We are trying to impute, in fact, that the Commission could do otherwise, than do something in the service of the public.

Mr. Raila: Mr. Temporary Deputy Chairman, Sir, there is really nothing negative about this. What Prof. Anyang'-Nyong'o has done is to be specific. If the Commission is going to be transparent and fair in handling the applications, there is no reason why we would fear having this clause - "non-discriminatory criteria." This is something that is very fair.

The Minister for Transport and Communications (Mr. Ntimama): Mr. Temporary Deputy Chairman, Sir, I made it very clear when I moved this Bill that the Communication Commission of Kenya is going to be the most transparent body because it is going to serve the interests of a lot of people. We clearly stated that the Minister will definitely have an overview of what the Commission is going to do to make sure that fairness is done. The issues of licensing criteria and universal access have been clearly set out in the Bill. Maybe, they will also be covered in the regulations.

There are conditions that are going to be imposed on the license which will make it very imperative for most operators or all operators to move to the rural areas. So, when it comes to the regulations that are going to be put in place, the Minister is going to be very careful that the regulations which the Commission will issue are mostly administrative. When it comes to policy, then subsidiary legislations will be gazetted. These legislations will be investigated by the Departmental Parliamentary Committee of this House, before the Commission implements them. So, I do not think that we have any fear at all that the Commission is going to be unfair or not transparent. It is going to serve the interests of the Republic. In any case, we will license all operators, including my hon. friends. In any case, if hon. Raila wants to operate a telecommunications service in Kisumu, Luo Nyanza or anywhere else, he is allowed to do so. The only place where Telecom Kenya Limited has exclusivity is Nairobi. You can go ahead and get a licence to operate in those other regions.

The Temporary Deputy Chairman (Mr. Imanyara): Mr. Minister, can you clarify the use of language.

Do you want to say "data are provided" or "there is provision of data"?

The Minister for Transport and Communications (Mr. Ntimama): It should be "provided." It is typographical error.

Mr. Raila: Mr. Temporary Deputy Chairman, I am worried because the assurances the Minister is giving the House here are merely words, but we know that actions speak louder than words. We know that already, a number of people have forwarded their applications and have already been given licences. This Bill says that all licences already issued by the KPTC are going to be automatically inherited by the CCK. The Government is already creating a monopoly for Telecom Kenya. The most lucrative market in the country is already being given exclusively to Telecom Kenya. I have said that Telecom Kenya is actually inheriting the KPTC, which has monopolised telecommunications business in this country from the time it was set up. If we want to attract investments, why do you want to create such monopoly? Why do you want to deny other people the opportunity to compete? I think we need to put it in law so that the hands of the people who are going to issue licences are tightened. We are dealing with people who have been crude in the past. They are people who know nothing but intransparency. They cannot be transparent unless their hands are tied.

Let the Minister agree that we want to take this country from those dark ages into the modern times. We are dealing with modern telecommunications, which has transformed this world into a global village. We want Kenya to move in tandem with the rest of the world.

The Minister for Transport and Communications (Mr. Ntimama): Mr. Temporary Deputy Chairman, Sir, I hope that I am not getting into an open debate again. But I want to assure the hon. Member - I read the HANSARD very well and I was here taking notes when he was contributing - that we are not personalising this sector. We are liberalising, privatising and reforming. We are not going back on this process. I would like to assure the hon. Members that no monopolies are going to be encouraged any more when we are liberalising.

Dr. Kituyi: On a point of order, Mr. Temporary Deputy Chairman, Sir. For the second time, I have not

had a chance when I have tried to catch your eye. I am just worried that the Minister is insisting on retaining what is provided for in the draft Bill. Could he, in simple language, explain to us what he means in Clause 23(1)? What is he trying to say? It does not even make sense in the English language.

The Temporary Deputy Chairman (Mr. Imanyara): We have had debate on that. It is quite obvious that there is a typographical error. It should be:-

"The Commission shall so far as is reasonably practicable ensure that there are provided throughout Kenya such telecommunications services and, in particular, emergency, public pay-phones and directory information service as reasonably satisfy the demand thereof."

I think the word is "provided" instead of "provide."

Dr. Kituyi: Mr. Temporary Deputy Chairman, one would have wanted to assume that what the Minister wanted to say is that the Commission shall have the responsibility for providing these services. Why can he not accept an amendment which says it straight, instead of using the words "as far as reasonably practicable." You are hiding so much of what you want to say behind excuses that you do not say very much.

*(Question, that the words to be left out be left out,
put and negatived)*

(Clause 23 agreed to)

Mr. Raila: On a point of order, Mr. Temporary Deputy Chairman, Sir. On three occasions, the Chair has put the Question twice in order to give the other side of the House a chance to organise themselves. I think this amounts to rigging.

The Temporary Deputy Chairman (Mr. Imanyara): That is not right.

Clause 24

The Minister for Transport and Communications (Mr. Ntimama): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 24 be amended in subclause (1) by deleting the words "issued under this Part" and inserting in place thereof the words "granted under this Act."

(Question of the amendment proposed)

*(Question, that the words to be left out be left out,
put and agreed to)*

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

(Clause 24 as amended agreed to)

(Clause 25 agreed to)

Clause 26

The Minister for Transport and Communications (Mr. Ntimama): Mr. Temporary Deputy Speaker, Sir, I beg to move:-

THAT, Clause 26 be amended by inserting the following new subclause -

(2) Notwithstanding the provisions of subsection (1) any telecommunications operator aggrieved by the decision of the Commission under this section may appeal to the Tribunal within fifteen days of the receipt by him of the notification by the Commission.

(Question of the amendment proposed)

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Chairman, Sir, now you can see why I saying

that this criteria should be published in a gazette. It was in the anticipation of this amendment by the Minister. The Minister is now saying that:- "(2) Notwithstanding the provisions of subsection (1) any telecommunications operator aggrieved by the decision of the Commission under this section may appeal to the Tribunal within fifteen days of the receipt by him of the notification by the Commission."

Mr. Temporary Chairman, Sir, one of the reasons that somebody making an appeal would have is definitely discrimination. I had proposed the following: "The Commission shall cause to be published in the Gazette a non-discriminative, fair criteria and requirements for issuing all licences to run any telecommunication service." If my proposal were accepted, on appeal, the Commission would be in a much better place that the things complained of were made public by the Commission. The Commission would actually be much more transparent in this regard. So, the Minister is requiring us to support a very important amendment, but he rejected the one amendment which would have helped both the client and the Commission to be transparent. This is very sad. The amendments which we have proposed were very reasonable. In actual fact, they would have gone a long way to reinforce the Bill itself. What could have helped the Minister is not coming forth. I can only conclude that the Minister did not do his homework very well, or that the officers sitting over there were not very useful to him because he should have been informed on the importance of the amendment we are moving. He is doing a disservice to this nation by refusing to adopt our amendments and introducing another one, which is going to be a lame duck.

We are really in this House for very serious business. My friend, Mr. Ntimama, whom I have a lot of respect for, is not being helped by his officers. They should have informed him of the importance of our amendments.

(Question, that the words to be inserted be inserted, put and agreed to)

(Clause 26 agreed to)

Clause 27

The Minister for Transport and Communication (Mr. Ntimama): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 27 be amended-

- (a) in subclause (1) by inserting the words "Minister in consultation with the" immediately before the word "Commission".
- (b) in subclause (2)-
 - (i) by inserting the words "Minister in consultation with the" immediately before the word "Commission"
 - (ii) by deleting the word "secrecy" and inserting "privacy" in paragraph (b) thereof.

(Question of the amendment proposed)

Dr. Kituyi: This is just one of a series of such amendments being proposed by the Minister. Could he be so kind as to tell the House why, at this stage, powers which in the original Bill had been vested in the Commission, are so systematically being transferred to the Minister, because all those amendments are coming in a lot of other clauses? He is inserting "Minister in consultation with the" where it was provided for to be done by the Commission. What has caused this desire to transfer these functions to the Minister?

The Minister for Transport and Communications (Mr. Ntimama): Mr. Temporary Deputy Chairman, I want to tell the hon. Member that this Bill was scrutinised according to the Standing Orders of this House and the Departmental Parliamentary Committee sat for long hours to scrutinise this Bill. Most of these amendments came from the Departmental Parliamentary Committee. In any case, the Minister is supposed to be the regulator. The Commission is working on behalf of the policy of the national Government, and the Minister here has the authority to direct that policy.

Eng. Muriuki: Thank you, Mr. Temporary Deputy Chairman, Sir. On this particular case, I wish to clarify that the issue did arise in the Departmental Committee, and a deliberate decision was made to insert these amendments as it is here. If there was a mistake made in this particular case, it could only have been made at that level because that was the wish of the Committee and unless a different view arises, actually this is what had been

discussed in brief.

*(Question, that the word to be left out
be left out, put and agreed to)*

*(Question, that the words to be
inserted, put and agreed to)*

(Clause 27 as amended agreed to)

*(Clauses 28, 29, 30, 31, 32, 33,
34, 35, 36 and 37 agreed to)*

Clause 38

The Minister for Transport and Communications (Mr. Ntimama): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 38 be amended in sub-clause (1) by inserting the words "Minister in consultation with the" immediately after the word "Commission."

(Question of the amendment proposed)

*(Question, that the words to be inserted
be inserted, put and agreed to)*

(Clause 38 as amended agreed to)

Clause 39

The Minister for Transport and Communication (Mr. Ntimama): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 39 be amended in sub-clause (1) by inserting the words "Minister in consultation with the" immediately before the word "Commission."

(Question of the amendment proposed)

*(Question, that the words to be
inserted, put and agreed to)*

(Clause 39 as amended agreed to)

(Clauses 40, 41, 42, 43, 44, 45, 46 and 47 agreed to)

Clause 48

The Minister for Transport and Communications (Mr. Ntimama): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 48 be amended in sub-clause (1) by inserting the words "or bags" immediately after the word "boxes."

(Question of the amendment proposed)

Prof. Anyang'-Nyong'o: Mr Temporary Deputy Chairman, Sir, I support the amendment, but I want to draw the attention of the Minister to an anomaly in Clauses 48 and 50, when they are read in conjunction with the new Postal Corporation Bill. Although it has not reached the debating stage, when we are amending this Bill, we should draw the attention of the Minister to it.

Clause 48(1) says that: "The Commission shall grant to the public postal licensee the exclusive right to provide private letter boxes and postal services, except... . Those exceptions are then listed there. Nonetheless, Clause 50 says: "The Minister shall designate the Postal Corporation of Kenya to be the public postal licensee". Now, the Postal Corporation is the only body which is going to license other bodies to be in the business. It is being given here, the exclusive rights to provide letter boxes and so on. This law gives it the exclusive right to do these things. Section 50 gives it the powers to license others. How is the Postal Corporation going to invite others to competition in a terrain in which it has already been given exclusive rights by the law?

The Minister for Transport and Communications (Mr. Ntimama): Mr. Temporary Deputy Chairman, Sir, the regulatory body is going to be the sole licensing authority for both telecom and postal services, unless, of course, the Minister has a different policy. But the regulatory body is going to license the postal services of Kenya and all the other operators in the postal service. I think what is happening here is that we also need to spread out the postal services and, maybe, a question of agencies will have to arise if we have to go into rural areas. The Postal Corporation of Kenya will probably be required to license those people who will be their agents in the rural areas.

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Chairman, Sir, I am afraid the Minister has not answered my question. I mean, he has spoken, but his speech is not an answer. Could he answer my question? My question is this; the law as it exists, the particular section I am talking about, gives the Postal Corporation exclusive rights to provide those services like letter boxes and so on. Clause 50 gives it the power to license others. I am just seeking guidance here; do we not have a situation where there is a major contradiction here which is going to arise once the law is passed? Remember, in the Seventh Parliament, when we were discussing that Bill on drugs and narcotics, hon. Osogo and myself did point out that we were giving the magistrates too vague a power to jail people for ten years for possessing an ounce of Marijuana. We moved an amendment but the other side refused to accept it. When the law came into operation, the magistrates were the first to say; this cannot be implemented in reality. Here is a situation where I pointing out to you that Sections 48 and 50, read in conjunction with a Bill establishing the Postal Corporation, will produce a big problem when the Commission and the Postal Corporation come into being. Could you please sort out that problem before it leaves this House?

The Minister for Transport and Communications (Mr. Ntimama): Mr. Temporary Deputy Chairman, Sir, I think I have tried to answer Prof. Anyang'-Nyong'o's question by saying that the regulatory body will license the postal services of Kenya. They have exclusive rights on the boxes and bags and, indeed, the printing of and sale of stamps. But there could arise a situation where the postal services of Kenya will be able to have agencies like they have now, in certain areas of this country. They will probably be required to license those people who are going to be their agents.

*(Question, that the words to be inserted
be inserted, put and agreed to)*

(Clause 48 as amended agreed to)

(Clauses 49, 50 and 51 agreed to)

Clause 52

The Minister for Transport and Communications (Mr. Ntimama): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 52 be amended in sub-clause 1 by deleting paragraph (c).

(Question of the amendment proposed)

*(Question, that the words to be left out
be left out, put and agreed to)*

(Clause 52 as amended agreed to)

*(Clauses 53, 54, 55, 56, 57, 58,
59, 60, 61 and 62 agreed to)*

Clause 63

The Minister for Transport and Communications (Mr. Ntimama): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 63 be amended in sub-clause 1 by deleting the word "may" and inserting the word "shall".

(Question of the amendment proposed)

(Question, that the word to be left out be left out, put and agreed to)

(Question, that the word to be inserted in place thereof be inserted, put and agreed to)

(Clause 63 as amended agreed to)

(Clauses 64 and 65 agreed to)

Clause 66

The Minister for Transport and Communications (Mr. Ntimama): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 66 be amended by inserting the words "Minister in consultation with the", immediately before the word "Commission".

(Question of the amendment proposed)

(Question, that the words to be inserted be inserted, put and agreed to)

(Clause 66 as amended agreed to)

(Clauses 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77 and 78 agreed to)

Clause 79

The Minister for Transport and Communications (Mr. Ntimama): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 79 be amended by inserting the following proviso: "Provided that where the Commission does not grant a licence, it shall notify the applicant in writing of the reasons for refusal within 60 days. The applicant may, if aggrieved, appeal to the Tribunal".

(Question of the amendment proposed)

Mr. Ita: Mr. Temporary Deputy Chairman, Sir, I rise to ask the Minister, what is so magical about 60 days? Why is it that it cannot be 30 days? This is because in the preceding clauses, we have 30 days. Why has this to take 60 days before the applicant is informed?

The Minister for Transport and Communications (Mr. Ntimama): Mr. Temporary Deputy Chairman, Sir, I think the 60-day period is not too long, in view of the fact that the Commission would like to refer to certain things concerning the application, and all the other issues that pertain to the licence. I do not think 60 days is a long period.

Mr. Ita: But all that I am saying is that in Clause 81, there is the same kind of thing. It says: "The applicant will be advised within 30 days". But in Clause 79, the applicant will be informed within 60 days. Why

should one take 60 days and the other one 30 days? We should adopt the shortest period because we are talking of business. There is a bit of contradiction.

*(Question, that the words to be inserted
be inserted, put and agreed to)*

(Clause 79 as amended agreed to)

Clause 79

The Temporary Deputy Chairman (Mr. Imanyara): Prof. Anyang'-Nyong'o, we are on page 212.

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Chairman, Sir, I see that the Minister and I are thinking on the same wavelength on this particular amendment. In many ways, I think that his amendment takes care of my proposed amendment, that is on Clause 79 (ii), but on Clause 79 (iii), I do not know what the procedure is. But I am quite prepared to forego Clause 79 (ii) and include Clause 79 (iii) because of one particular aspect of it. But I do not know what the procedure is.

The Temporary Deputy Chairman (Mr. Imanyara): You are moving an amendment only on Clause 79 (iii)?

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Chairman, Sir, I think Clause 79 (ii) is taken care of by the Minister's amendment effectively. So, I would move that:

"An applicant for a licence aggrieved by the decision of the Commission may appeal to the Tribunal within 30 days from the date of the refusal of the licence. The Tribunal shall, within 60 days, give its decision to grant or refuse a licence and publish the decision and reasons to grant or refuse a licence in the Kenya Gazette".

I am insisting that the decisions of the Tribunal be published in the Kenya Gazette, so that these can become public knowledge. This is because many people will apply and be granted or refused licences, and a particular case should not be treated without due scrutiny or attention of the public. So, I would like to tell the Minister that Clause 79 (iii), which caters for the Tribunal publishing its decision in the Kenya Gazette and making it a public thing, is an extremely important amendment. I would forego Clause 79 (ii) and request the inclusion of Clause 79 (iii). It would, in the actual drafting of the law, be Clause 79 (ii).

The Temporary Deputy Chairman (Mr. Imanyara): Very well. Following the withdrawal of the first part, the new Subclause 2 to be inserted reads as follows;

"An applicant for a licence aggrieved by the decision of the Commission may appeal to the Tribunal within 30 days from the date of the receipt of the refusal of a licence. The Tribunal shall within 60 days give its decision to grant or refuse a licence and publish the decision and reasons to grant or to refuse a licence in the Gazette."

The Minister for Transport and Communications (Mr. Ntimama): Mr. Temporary Deputy Chairman, Sir, the amendments I have tabled under Clause 79 contain provisions regarding the publication in the Gazette or the reasons for any refusal by the Commission to grant a licence and for an aggrieved party to appeal and seek recourse to the Commission.

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Chairman, Sir, could I seek clarification from the Minister? I would be quite comfortable if, indeed, you have stated that the reasons for the Tribunal refusing or accepting are going to be published in the Gazette. But I have looked at your amendments and the Bill, as it exists, and there is no reference to the Tribunal publishing its decision in the gazette. I have not seen it. That is why I put it that the Tribunal shall within 60 days give it decision to grant or to refuse a licence and publish the decision and reasons to grant or refuse a licence by the date set. That is why I said so, but you are saying that it is already covered, but I have not seen it. Can you just point out to me in the Bill or in your amendment where it is covered, then I will definitely comply?

The Minister for Transport and Communications (Mr. Ntimama): Mr. Temporary Deputy Chairman, Sir, I do not think I have anything to add because Clause 79 is very clear and brief, indeed. I do not think I have any more explanation to make, and also for the amendments I have proposed here and---

Mr. Kibicho: Mr. Temporary Deputy Chairman, Sir, could the Minister consider providing for further appeal to the High Court because the High Court is a court with unlimited jurisdiction. This is because this appeal is putting us only to a Tribunal. Could he consider putting a further amendment so that the person who is aggrieved by the decision of the Tribunal can have a right of recourse to the High Court?

The Minister for Transport and Communications (Mr. Ntimama): Mr. Temporary Deputy Chairman, Sir, there are no provisions in this one to appeal to the High Court.

Mr. Kibicho: Mr. Temporary Deputy Chairman, Sir, we are suggesting that we put a further amendment so that the High Court may have jurisdiction to hear these appeals because the High Court is a court of unlimited jurisdiction. There will be some dispute later on, arising from these constitutional problems.

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Speaker, Sir, I am really trying to be helpful to the Minister. He did say that Section 79 already covers the publication of the decision of the Tribunal in the . Let me read it. It says:-

"The Commission shall, upon expiry of the period of notice under Section 78, grant a licence to the applicant if satisfied that the applicant should be licensed subject to such conditions, including the payment of that licence fee as may be prescribed."

There is no reference to the---. Your amendment, Mr. Minister, says:

"Provided that where the Commission does not grant a licence it shall notify the applicant in writing of its reasons for refusal within 60 days and the applicant may, if aggrieved, appeal to the Tribunal."

I agree, but then I wanted to continue to make that complete by saying that "the Tribunal shall within 60 days give its decision to grant or refuse licence and publish the decision and reasons to grant or refuse a licence in the ." You are saying that it is in the Gazette in yours, but it is not; it is in mine. So, if you add mine to yours, then the Gazette matter is settled. Either we are refusing to publish these things in the Gazette or we are accepting. But I think that decisions like these should be published in the Gazette. I would think that the Government is refusing this; when we go to the Land Board and land titlement is awarded to somebody, it is published in the Gazette; when somebody divorces, it is published in the Gazette. When you change your name, it is published in the Gazette. Here is a very important issue where a licence is being issued by the Commission and its refusal or acceptance should be published in the Gazette and it should be stated in the law.

(Question of the amendment proposed)

(Question, that the words to be added be added, put and negatived)

(Clause 79 agreed to)

(Clause 80 agreed to)

Clause 81

The Minister for Transport and Communications (Mr. Ntimama): Mr. Temporary Deputy Chairman, Sir, I beg to move that Clause 81 be amended by inserting the following proviso:-

"Provided that where the Commission does not renew the licence it shall notify the licensee in writing of the reasons for refusal within thirty days and the licensee may if aggrieved appeal to the Tribunal."

(Question of the amendment proposed)

Prof. Anyang'-Nyong'o: Mr. Temporary Chairman, Sir, a friend of mine told me earlier that during the KANU Parliament Group yesterday, the other side was instructed to vote against any proposal by this side. Now, what the Minister is proposing here--

Mr. Kamolleh: On a point of order, Mr. Temporary Deputy Chairman, Sir. I think the hon. Prof. Anyang'-Nyong'o is trying to say that we are so small and are, nincompoops that we are given orders. We talk to the Chairman of the party and we agree on matters. We are never given orders!

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Chairman, Sir, Sigmund Freud said: "When someone is denying something, that is exactly what he is". Now, Clause 79---

Mr. Koske: On a point of order, Mr. Temporary Deputy Chairman, Sir. I do not think Prof. Anyang'-Nyong'o is in order to impute wrong and ill motives on hon. Kamolleh.

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Chairman, Sir, I never imputed any motive on anybody.

I was just quoting Sigmund Freud. If that amounts to imputing a motive, then the English language is extremely difficult to understand. But notwithstanding all that, what the Minister is proposing in Clause 81, says that:-

"Provided that where the Commission does not grant a licence it shall notify the applicant in writing of its reasons for refusal within 60 days, and the applicant may, if aggrieved, appeal to the Tribunal".

It is really reinforcing what I had proposed earlier with regard to the Commission, and now it is the Tribunal. What you are doing to the Tribunal, you should do to the Commission. Now, you refused my amendment proposals with regard to the Commission, and you are now bringing it to the Tribunal.

Mr. Temporary Deputy Chairman, Sir, when this law is published, some of us will be vindicated and I am going to keep my amendments with me, and when those issues become problems, I will remind you of what we went through with the Narcotics Bill, with the former, hon. Osogo. I am telling you, the ghost of Mr. Osogo and all of us will haunt hon. Ntimama.

The Minister for Transport and Communications (Mr. Ntimama): Mr. Temporary Deputy Chairman, Sir, I would like to assure the hon. Member that we are not under any orders, especially on this Kenya Communications Bill. If you were eaves-dropping, it was never discussed during the KANU Parliamentary Group meeting at all.

Mr. Temporary Deputy Chairman, Sir, you know very well that we have accepted one or two amendments that have been proposed by hon. Anyang'-Nyong'o, supported by hon. Raila. So, if Prof. Anyang'-Nyong'o thinks that what we proposed in the Commission is now what we are bringing up in the Tribunal, I think we will agree that this is a win-win situation.

*(Question, that the words to be inserted be inserted,
put and agreed to)*

(Clause 81 as amended agreed to)

Clause 82

The Minister for Transport and Communications (Mr. Ntimama): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 82 be amended in subclause (2) (a) by inserting the words "in writing and by publication in the Gazette" immediately after the word "notice."

(b) in paragraph (c) by inserting the words "by the licensee or by any interested party" immediately after the word "made" on the fourth line.

(c) in subclause (4) by adding at the end thereof the words "and the reasons thereof."

(Question of the amendment proposed)

*(Question, that the words to be inserted be inserted,
put and agreed to)*

(Clause 82 as amended agreed to)

(Clause 83 agreed to)

Clause 84

The Minister for Transport and Communications (Mr. Ntimama): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 84 be amended in subclause (1)

(a) by deleting the words "the Minister shall establish" and inserting "there is established";

(b) by inserting the word "Communications" immediately before the word "Secretary" appearing on the third line";

(c) by deleting the words "of the Ministry as the Minister may determine" and inserting "as may be determined from time to time".

(Question of the amendment proposed)

*(Question, that the words to be left out
be left out, put and agreed to)*

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 84 as amended agreed to)

(Clauses 85, 86 and 87 agreed to)

Clause 88

The Minister for Transport and Communications (Mr. Ntimama): Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT Clause 88 be amended in subclause (1) by deleting the word "occurrence" and inserting "declaration".

(Question of the amendment proposed)

*(Question, that the word to be left out
be left out, put and agreed to)*

*(Question, that the word to be
inserted in place thereof
be inserted, put and agreed to)*

*(Clauses 89, 90, 91, 92, 93, 94, 95, 96, 97,
98, 99, 100, 100 and 101 agreed to)*

Clause 102

The Minister for Transport and Communications (Mr. ole Ntimama): Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT Clause 102 be amended -
(a) by inserting the words "for the purpose of arbitrating in cases where disputes arise between parties under this Act" immediately after the word "Tribunal" in subclause (1),
(b) by inserting the following new subclause-
"(4) The members of the Tribunal shall hold office for a period of three years but shall be eligible for reappointment for one further term of three years."

(Question of the amendment proposed)

*(Question, that the words to be inserted
be inserted, put and agreed to)*

First Schedule

The Minister for Transport and Communications (Mr. ole Ntimama): Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT the First Schedule be amended -
(a) in paragraph 1 by deleting the words " A member of the Board other than an ex-officio member" and inserting "The chairman or a member other than an ex-officio member";
(b) in paragraph 2(b)-
(i) by deleting subparagraph (vi) and inserting the following new subparagraph:- (vi) "fails to comply with the provisions of this Act relating to disclosure;

(ii) by inserting the following new subparagraph immediately after subparagraph (vi) -
 (vii) is engaged in a communications organisation which operates or provides communication services or is engaged in the manufacture or distribution of communications equipment in Kenya as an owner, shareholder, partner or otherwise, whether directly or indirectly."

(c) in paragraph 3(1) by inserting the following subparagraph immediately after subparagraph (1):-

(1A) Notwithstanding the provisions of subparagraph (1), the Chairman may call a special meeting at any time where he deems it expedient for the transaction of the business of the Board.

(Question of the amendment proposed)

*(Question, that the words to be left out be left out,
 put and agreed to)*

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

(First Schedule as amended agreed to)

Second Schedule

The Minister for Transport and Communications (Mr. ole Ntimama): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the Second Schedule be amended in paragraph 3 by renumbering the existing paragraph as subparagraph (1) and inserting the following new subparagraph -

(2) The Chairman or a member of the Tribunal may be removed from office by the Minister if he is -

- (i) unable to discharge the functions of his office by reason of mental or physical infirmity; or
- (ii) an undischarged bankrupt; or
- (iii) convicted of an offence involving fraud or dishonesty; or
- (iv) convicted of a criminal offence and sentenced to imprisonment for a term exceeding six months or a fine exceeding ten thousand shillings.

(Question of the amendment proposed)

*(Question, that the words to be left out be left out,
 put and agreed to)*

*(Question, that the words to be inserted be inserted,
 put and agreed to)*

(Second Schedule as amended agreed to)

Third Schedule

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Chairman, Sir, I would like to draw the attention of the Minister to the transitional provisions, especially in (1), the interpretation of assets:

In this Part, unless the context requires otherwise;

"assets include all property, movable or immovable and all estates, easements and rights whether equitable or legal in, or out of property, choses-in-action, money or goodwill of the former Corporation whether situated in Kenya or elsewhere".

Mr. Temporary Deputy Chairman, Sir, I think in having this transition period when KP&TC is being dissolved and inherited both by the Commission and the Postal Corporation, the issue of assets and liabilities is very important. I do hope we are not going to have another Kenya Airways situation in this regard, nor are we going to have the KENEXTEL situation, where we lost a lot of assets in the process because of poor transitional provisions. I do hope that what is provided for here in the Third Schedule will be taken very seriously by the

Minister for Finance and the entire Cabinet, noting what is provided for in section 6 (1) of the Schedule, that under no circumstances are we going to sell or give for a penny or farthing, valuable assets of this nation to politically correct individuals or companies.

Mr. Raila: Mr. Temporary Deputy Chairman, Sir, on this Third Schedule, there is Clause 7, on the employees of the former Corporation, which says:

"Every person who at the commencement of this Act is an employee of the former Corporation, not being under the 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, as may be respectively specified by the Minister on the same or improved terms and conditions of service".

Mr. Temporary Deputy Chairman, Sir, this clause binds the Minister to inherit all the staff of the Corporation, including the deadwood, on the same terms and conditions. This, therefore, means that the Managing Director of KP&TC automatically becomes the Director-General of Telkom Kenya.

Mr. Temporary Deputy Chairman, Sir, I would like the Minister to borrow a leaf from other countries where this has been done. This is because, the principle behind this exercise is to enhance efficiency in the telecommunications industry, and ensure that the deadwood are weeded out of the system. This clause, if implemented the way it is, is going to imply that nothing will change. It is just a matter of changing the name of KP&TC. The Minister needs to give a lot of thought to this particular clause because we want to have a much more efficient telecommunications system operating in this country. We cannot transfer the inefficient parastatal that we have had into this new Corporation. We will not be doing justice to the people of this country.

The Minister for Transport and Communications (Mr. ole Ntimama): Mr. Temporary Deputy Chairman, Sir, first of all, there will be a transitional committee which is going to take care of the services and conditions of service of all the employees of the KP&TC. It will also take care of the assets, and we already have a criteria of dividing the assets, most of which will go to the pension fund, so that we can guarantee the payment of pension to all the retirees.

Mr. Temporary Deputy Chairman, hon. Raila is a businessman. When we come to separating these organisations, they are going to be private and will be run commercially. I do not know of any organisation among those that will tolerate any employees that are not profitable, productive, talented and lazy. I am sure it will be their own business and they should know more than that, if they really want to make money.

(Third Schedule agreed to)

(Title agreed to)

(Clause 1 agreed to)

The Minister for Transport and Communications (Mr. Ntimama): Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of the Kenya Communications Bill and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

(The House Resumed)

[Mr. Deputy Speaker in the Chair]

REPORT, CONSIDERATION OF REPORT AND THIRD READING

THE KENYA COMMUNICATIONS BILL

Mr. Imanyara: Mr. Deputy Speaker, Sir, I beg to report that a Committee of the whole House has considered the Kenya Communications Bill and approved the same with amendments.

The Minister for Transport and Communications (Mr. Ntimama): Mr. Deputy Speaker, Sir, I beg to move that the House doth agree with the Committee in the said Report.

The Assistant Minister for Transport and Communications (Mr. Obure) seconded.

(Question proposed)

(Question put and agreed to)

The Minister for Transport and Communications (Mr. ole Ntimama): Mr. Deputy Speaker, Sir, I beg to move that the Kenya Communications Bill be now read the Third Time.

The Minister for Agriculture (Mr. Mudavadi) seconded.

(Question proposed)

(Question put and agreed to)

(The Bill was accordingly read the Third Time and passed)

PROCEDURAL MOTION

EXEMPTION OF BUSINESS FROM STANDING ORDERS:
THE HOUSE TO SIT UNTIL CONCLUSION OF
BUSINESS ON ORDER PAPER

The Minister for Agriculture (Mr. Mudavadi): Mr. Deputy Speaker, Sir, I rise under Standing Order No.171 to move:-

THAT the House do sit until the Business appearing on today's Order Paper is completed.

Mr. Deputy Speaker, Sir, I am making this request to the House because, tomorrow, we will have a Motion of Adjournment, and the effectiveness of the Kenya Communications Bill we have just gone through will not really come into force until we have also sorted out the aspects of the Postal Corporation Bill. So, that is absolutely important.

Secondly, I think it is important for me to just mention that I spoke to the previous Chairman of the Public Investment Committee (PIC), and on the Order Paper, his Motion does appear, and he is supposed to reply. I would also seek the indulgence of the House that we allow him to make that reply to this particular Motion, and then we can revert to the Postal Corporation Bill and, hopefully, complete it.

The Assistant Minister for Finance (Mr. Keah): Thank you, Mr. Deputy Speaker, Sir, for giving me the opportunity to second the Motion that has been moved by the Leader of Government Business. I do not think I have much to add to the contents of that Motion because tomorrow we are moving a Motion of Adjournment and it is only proper that we finish the business that is appearing on today's Order Paper.

Mr. Deputy Speaker, Sir, I, therefore, beg to second that we extend the time of sitting in the House today until we finish the business appearing on the Order Paper.

(Question put and agreed to)

BILL

Second Reading

THE POSTAL CORPORATION BILL

(The Minister for Transport and Communications on 28.7.98)

(Resumption of Debate interrupted on 28.7.98)

The Minister for Transport and Communications (Mr. Ntimama): Mr. Deputy Speaker, Sir---

Mr. Deputy Speaker: Order, hon. Ntimama! We are continuing with the debate on the Postal Corporation Bill, and hon. Kathangu was on the Floor when the business of the House was interrupted yesterday evening.

Prof. Anyang'-Nyong'o: On a point of order, Mr. Deputy Speaker, Sir. We support the proposal of the Minister to extend the time of the House, but we would like to appeal to the other side that the reason for extending the time of the House is so that we can debate meaningfully. Our experience in the previous debates has been that the other side tended to reject things without giving reasons. Would it be in order for us to extend the sitting of the House when the attitude of the other side is to reject things without giving reasons? Will the debate be meaningful?

Mr. Deputy Speaker: Order! Order! As we sit now, we have already approved the Motion to extend the sitting of the House, but if during the debate, you find that a Minister on this side is not contributing as per the Bill on the Table, you are at liberty to stand up and draw the Deputy Speaker's attention, and the Deputy Speaker will surely take action.

Let us proceed.

Mr. Kathangu: Ahsante sana, Bw. Naibu Spika. Nilipokuwa nikitoa maoni yangu jana, nilizungumzia kuhusu nia za wafanyakazi pamoja na wasimamizi wao. Niligusia fedha na matumizi yake, pamoja na mambo yanayohusiana na kazi mbaya zinazotendwa na Shirika la Posta na Simu. Katika Kifungu cha 21(3) cha Mswada huu, wasimamizi wa pesa katika Shirika la Posta na Simu kwa miaka iliyopita wamekuwa wakiweka pesa nyingi sana katika benki ambazo zimefilisika na kufanya shirika hili kupoteza pesa hizo. Jambo hili linaonyesha kwamba Shirika la Posta na Simu lilipoteza pesa nyingi na hakuna njia ya kurejeshewa pesa hizo. Kwa hivyo, wakati huu tunapotenganisha Mawasiliano na Shirika la Posta, itakuwa muhimu kuona kwamba wale watakoachaguliwa kusimamia Shirika la Posta hawawezi fedha za shirika hili katika benki au mashirika mengine ambapo wanaweza kupoteza pesa hizo.

Bw. Naibu Spika, Kifungu cha 23(4) kinasema kwamba hata kama barua au pesa ambazo zinatumwa kwa njia ya money order zinapotea, ama haziwafikii wale waliotumiwa, isiwe kwamba posta inaweza kuulizwa au kushtakiwa. Tukiwafanya hivyo, tutakuwa tukiwapatia wasimamizi wa posta mamlaka zaidi ya kuchukua au kupoteza ama kutosimamia vyema vitu ambavyo vinapitia mikononi mwao. Kwa hivyo, ningefikiria kwamba wakati tutakuja kupitisha Mswada huu, Kifungu cha 23(1) (a) na (b), na (2), ni lazima Waziri afikirie ni mabadiliko gani anaweza kufanya. Mimi ninaona kama tunawapatia maafisa wa posta mamlaka ya kutowajibika na huku mali za wateja zinapotea zikiwa mikononi mwao.

Bw. Naibu Spika, tukiangalia katika Orodha ya Kwanza(4) (Schedule), hapa tunasema kwamba wanachama wa Halmashauri ya Posta wanaweza kupewa kandarasi mbalimbali zinazotangazwa na Shirika la Posta. Ningetaka kusoma orodha hiyo kwa sababu kuna waheshimiwa Wabunge ambao hawana Mswada huu hapa. Inasema hivi:-

Mr. Deputy Speaker: Order! Order, hon. Kathangu!

Mr. Mkalla: On a point of order, Mr. Deputy Speaker, Sir. Since the Bill has been debated for a long time, would I be in order to call upon the Mover to reply?

(Applause)

Mr. Kathangu: Bw. Naibu Spika, bado nina wakati mwingi sana karibu dakika 10 za kutoa maoni yangu.

Mr. Deputy Speaker: I think it will be grossly unfair to hon. Kathangu if I do not give him just five minutes to complete his contribution. I appreciate your point of order, hon. Mkalla, but I will come to you after he has finished making his contribution.

Mr. Kathangu: Ahsante sana, Bw. Naibu Spika. Labda sauti yangu haipendezi waheshimiwa Wabunge, lakini ningetaka maoni ya watu wa Runyenjes kuhusu Mswada huu yasikizwe.

Bw. Naibu Spika, nilikuwa nataka kusoma Orodha ya 4 (1) ya Mswada huu ili hata mhe. Mbunge ambaye amezungumza hivi punde aelewe:-

"If a member is directly or indirectly interestd in any contract, proposed contract or other matter before the Board and is present at a meeting of the Board at which the contract, proposed

contract or other matter is the subject of consideration, he shall, at the meeting and as soon as practicable after the commencement thereof, disclose the fact and shall not take part in the consideration or discussion of, or vote on, any questions with respect to the contract or other matter, or be counted in the quorum of the meeting during consideration of the matter:"

Bw. Naibu Spika, tunasema kwamba wale watakaochaguliwa kuwa wanachama wa Halmashauri ya Posta, ikiwa wanataka kuchukua kandarasi za Posta, basi, wawe wanaweza. Sehemu ya pili inasema kwamba anaweza kupewa kandarasi au kuketi kwa mkutano ambao utakuwa unakata shauri:-

"Provided that if the majority of the members present are of the opinion that the experience or expertise of such member is vital to the deliberations of the meeting, the Board may permit the member to participate in the deliberations subject to such restrictions as it may impose."

Jinsi ninavyoona ni kwamba kifungu hiki kinawakubalia wanachama wote wa Halmashauri ya Posta kuchukua kandarasi za Posta na pia kuketi katika mikutano yote ambayo itakuwa inakata shauri ya kutoa kandarasi hasa zile kubwa kubwa. Tunajua kwamba wanachama wa Halmashauri wanapewa kandarasi kupitia kwao wenyewe ama kupitia kwa watu wengine. Hii ndio sababu ninasema kwamba Mswada huu uangaliwe kwa makini na Bw. Waziri, ili wakati tunapopitisha Mswada huu, tusiache mianya ambayo itatuletea hasara kwa kupoteza fedha kwa njia mbalimbali.

Bw. Naibu Spika, kulingana na vile naona Wabunge wamechoka kutokana na yale ambayo yametendeka leo, na ningependa kusema kwamba ilikuwa aibu kubwa kwa wale ambao wako katika Bunge hili kujizosha na vita, na ndiyo sababu hawawezi kujikinga mpaka mwisho. Wakati ninapoenda kuketi chini, ninasema kwamba ni vibaya sana wale ambao wamepewa jukumu la kusimamia nchi hii katika Bunge kuleta vita kama vijitoto na mimi namuomba Mola kwa Jina la Baba na la Mwana na la Roho Mtakatifu lisije kutendeka tena hasa kutoka kwa wazee. Amina.

The Assistant Minister for Finance (Mr. Lomada): Asante sana Bw. Naibu Spika, kwa kunipa nafasi hii ili niweze kusema machache juu ya Mswada huu---

Mr. Shidie: On a point of order, Mr. Deputy Speaker, Sir. In view of the fact that we have discussed this Bill extensively, would I be in order to call upon the Mover to reply?

(Dr. Ochuodho stood up)

Mr. Deputy Speaker: Order! Hon. Dr. Ochuodho, when the Chair is standing, you freeze. I did allow hon. Kathangu to continue with his contribution instead of putting the question as hon. Mkallah had proposed, because his reason was really regarded to be frivolous. Another hon. Member has now stood up and moved that the Mover be now called upon to reply. I think it is only fair that if Members feel that they have had sufficient time to discuss a Motion or a Bill, that we make progress. So, I will now put the Question that the Mover be now called upon to reply.

(Question, that the Mover be now called upon to reply, put and agreed)

The Minister for Transport and Communications (Mr. ole Ntimama): Mr. Deputy Speaker, Sir, I stand to respond to the Debate on the Postal Corporation Bill, and I am going to be very, very brief because the Kenya Communications Bill is now law and what has prompted us to bring up the Postal Corporation Bill is because we have now repealed the Kenya Posts and Telecommunication Act, Cap. 411. So, the Postal Corporation Bill has also to be presented to this House especially because it is going to be a parastatal and not a public company like the Telecom Kenya Limited which is going to be established under the Companies Act. However, I know that some hon. Members contributed to this debate, especially hon. Kathangu, hon. Keah, and my friend, hon. Prof. Anyang'-Nyong'o, and I think one more that I cannot remember.

I want to tell the hon. Members that we have taken into account all the proposals and suggestions which are pertinent to this Bill, and especially what hon. Kathangu said about the vehicles. He talked about those vehicles before we adjourned the House yesterday. No private company is going to use its vehicles to do extra work that is not profitable. I do not know, but I am sure that Telecom Kenya Limited will now look after itself and take off as a corporation and not as a monopoly, and make sure that it makes profits; otherwise, it will not survive in this multi-operator and multi-competitive world. The most important thing here, in this Bill, is that, it has got this exclusivity of boxes and postal bags. It has got also the exclusivity of printing and selling of postage stamps. It also has got the exclusivity of handling letters of up to 350 grammes.

Mr. Deputy Speaker, Sir, we hope that this Corporation will be able to stand on its feet financially. We

hope it is not going to be one of those corporations that have to be bailed out by the Treasury, and whose losses have to be underwritten by the Government. So, we are now studying very carefully the commercialisation of the Corporation, and I am sure that it will be able to stand on its own feet. We hope that from there, we should be able to have a good corporation which is going to serve our postal services, and, indeed, expand the postal services into our rural areas.

With those remarks, I beg to move.

(Question put and agreed to)

*(The Bill was read a Second Time and
committed to a Committee of the whole
House today by leave of the House)*

Mr. Deputy Speaker: Order, hon. Members! For the convenience of our sitting this afternoon and because of the pressure we are subjected to due to lack of sufficient time, we have had consultations and decided that we should interrupt debate on the Postal Corporation Bill to enable us to complete debate on the Public Investments Committee Report (PIC). Later on, we will then come to the Committee of the Whole House for the Postal Corporation Bill. This is quite permissible under Standing Order No.31(2). So, with the indulgence of the House, we will now move to the next Order.

MOTION

ADOPTION OF SEVENTH PIC REPORT

THAT, this House adopts the the Seventh Report of the Public Investments Committee on the Accounts of State Corporations laid on the Table of the House on 22nd April, 1998.

(Mr. Kapten on 10.6.98)

(Resumption of Debate interrupted on 2.7.98)

Mr. Deputy Speaker: I now call upon Mr. Kapten to reply.

Mr. Kapten: Thank you very much, Mr. Deputy Speaker, Sir, for giving me this opportunity to reply to the contributions made by hon. Members of Parliament on the PIC Report.

Mr. Deputy Speaker, Sir, many hon. Members spoke on this Report and they made their valuable contributions. We hope that the sentiments expressed by the hon. Members are going to be carried out by the relevant authorities. We have had so many reports in this House, both for PIC and PAC, but it appears that the implementing authorities have not seriously looked at the matter and acted upon the Reports as passed by this honourable House.

Mr. Deputy Speaker, if Kenya has to be respected as a democratic country, it is important that the wishes of the people, expressed through Parliament, must be respected. This has not been done in the past. I hope this time round, the wish and the will of the people of this country will prevail.

Mr. Deputy Speaker, Sir, I would like to touch on a few points which have been raised by hon. Members when contributing on this Bill. They touched on the appointment of chief executives of parastatals. Quite a number of hon. Members suggested that the chairmen and the chief executives of parastatals should be people who are competent to carry out due duties given to them. People should not be appointed to these parastatals because of their relationships or closeness to the appointing authority. Competence should be one important aspect that the appointing authority looks at before a person is appointed as a chairman or a chief executive of any parastatal. Kenya has very many people who are qualified to do various jobs. I do not think it is fair that one person should be given several appointments when other people are languishing in the streets. I do not see the rationale of one person being appointed to head three or four parastatals when we have equally competent or better qualified persons who can hold such jobs.

Mr. Deputy Speaker, Sir, we have a problem in this country, in the sugar industry. In fact, the whole of the farming industry in this country is in problems. It is in complete shambles. It is important that the Government looks at the farming industry in this country, that is the mainstay of our economy. If we do not look at this industry, whatever we do, or say, the economy of this country will not come back on board. Farmers in

Western Province are crying about their sugar-cane. Factories are complaining because they cannot sell the sugar they have manufactured because of the glut brought about by imported sugar in this country. Recently, we had somebody appointed as the chairman of the Kenya Sugar Authority. The person who was appointed the chairman of Kenya Sugar Authority holds other important positions in this country. He is, for example, the chairman of Kenya Farmers Association (KFA). We know the problems facing KFA now. Why should we appoint---

Mr. Deputy Speaker: Order, Mr. Kapten! If you want to discuss another hon. Member, please, do so by moving a substantive Motion.

Mr. Kapten: Mr. Deputy Speaker, Sir, I was very careful. I did not mention the name of any person. I did not even say that, that person is an hon. Member of this House. I do not know if he is an hon. Member of this House, but I know he is the chairman of the Kenya Sugar Authority. That is what I said.

Mr. Deputy Speaker, Sir, I said also that this person is also the chairman of KFA. We know the problems bedeviling KFA. It has completely failed, and yet it is a farmers' association. Why should one person be given several appointments in this country when we have other people who can also perform such duties? Why should somebody be given several appointments in this country, while there are other people who can perform better?

Mr. Shidie: On a point of order, Mr. Deputy Speaker, Sir. Is the hon. Member in order to mislead the House and attack a Member who is not in the House, without moving a substantive Motion?

Mr. Deputy Speaker: Hon. Shidie, I have already ruled on that. The hon. Member on the Floor is aware that he cannot do that.

Proceed, hon. Kapten.

Mr. Kapten: Mr. Deputy Speaker, Sir, I know the rules of this House. I think I have not breached any rule. That is why I have not mentioned any names. Be that as it may, my main point is this: Let us have a policy of one man one job. That is going to help this country.

Mr. Deputy Speaker, Sir, the other point which was raised by hon. Members concerned over-expenditure without approval by State corporations. Indeed, in my main contribution, together with most Members, we touched on this point. Many parastatals spend money without approval, either from their respective Boards, parent Ministry, or even from the Ministry of Finance. The people who spend money without approval have their names in the Report. I hope the implementing authority, that is the Government, will take steps against those people who spent large sums of money without the necessary approval.

The other point that I touched on, and which many hon. Members spoke on, concerns the investment in soya beans by the ICDC. The names of the people who were adversely named or mentioned in the Report are there. I do not wish to go back to some of them. Some of those people have left the Government; some of them are Members of this House. I hope that the Government will take steps to recover the colossal sum of money, which was lost because of a wrong investment in a company which the Government knew would not take off. The Government, or the people of Kenya, lost close to Kshs1 billion because of mis-investment. I hope steps will be taken against the people concerned.

The Treasury has given guidelines on the investments of funds. The purpose of giving those guidelines is that parastatals should strictly follow whatever is provided for in the guidelines. Most of the chief executives of several parastatals, like Kenya Posts and Telecommunications, National Oil Corporation of Kenya, Kenya Tourism Development Corporation, National Social Security Fund and others did not follow the guidelines. I hope the present chief executives and boards will take steps to strictly adhere to the guidelines issued by the Treasury.

Mr. Deputy Speaker, Sir, the other point is on the abandoned projects. We have a lot of money which was invested in projects that were abandoned, or are dormant now. The investment was done without proper feasibility studies. In fact, in some cases, the so-called investment was done by the chief executives knowing that those projects would not take off. But they put money in projects not because they wanted the projects to take off, but because they wanted to find a way of getting that money into their own private pockets. That has been done and it is too late to cry about it. What the Government must do now is to take urgent steps and dispose of those dormant or abandoned projects, instead of just leaving them there. This is because natural causes are taking their toll; theft is taking its part and so forth. So, urgent steps must be taken to dispose of these Government projects, so that the Government, perhaps, can realise a few shillings and use the money to finance urgent projects which are going on.

Mr. Deputy Speaker, Sir, lastly, we talked about delays in submission of accounts. That is a cancer in our parastatals. The chief executives are either deliberately delaying the submission of accounts so that when the accounts finally reach this House, or the PIC, those chief executives have either retired or left those parastatals.

Steps must be taken to ensure that accounts are submitted in time, so that if we are talking about accounts, we should be talking of accounts of last year, not accounts relating to ten, 15 or 20 years ago. That is what has killed this country. If steps are not taken to force chief executives to submit accounts in time so that they are audited and the PIC looks at them in time, most of these chief executives and the boards will keep on taking money from these parastatals without any steps being taken against them. So, the implementing authority must take steps to ensure that the relevant chief executives submit the accounts of the respective parastatals in time for auditing.

Finally, I wish to thank all the hon. Members who contributed to this Motion. Very useful information was given, and if the Government can take seriously the sentiments of Members and implement them, I think we will be looking forward to jump-starting our economy, and that is what everybody is looking for. The economy of this country is in shambles and as Kenyans, we want to help our country. Whether one is in the Opposition or Government, Kenya is our country and we must collectively try to help our country, so that the generation which comes afterwards may find something better than we found ourselves.

With those few remarks, Mr. Deputy Speaker, Sir, I beg to move.

(Question put and agreed to)

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

[Mr. Deputy Speaker left the Chair]

IN THE COMMITTEE

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

THE POSTAL CORPORATION BILL

(Clauses 2, 3 and 4 agreed to)

Clause 5

The Minister for Transport and Communications (Mr. Ntimama): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 5 be amended in subparagraph (ii) of paragraph (a) by deleting the word "subscription" and inserting "registration for delivery of".

*(Question, that the word to be left out be left out,
put and agreed to)*

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

(Clause 5 as amended agreed to)

Clause 6

The Minister for Transport and Communications (Mr. Ntimama): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 6 be amended - (a) in paragraph (a) by deleting the word "President" and inserting "Minister".

(b) in paragraph (b) by deleting the word "President" and inserting the words "Minister in consultation with the Board".

(c) in paragraph (e) by deleting the word "three" and inserting "five".

(Question of the amendment proposed)

*(Question, that the words to be left out be left out,
put and agreed to)*

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

(Clause 6 as amended agreed to)

Clause 7

The Minister for Transport and Communications (Mr. Ntimama): Mr. Deputy Temporary Chairman, Sir, I beg to move:-

THAT, Clause 7 be amended by inserting the following new paragraph at the end thereof:-
(f) determine charges to be paid in respect of any postal service.

(Question of the amendment proposed)

*(Question, that the words to be inserted be inserted,
put and agreed to)*

(Clause 7 as amended agreed to)

(Clauses 8, 9, 10, 11 and 12 agreed to)

Clause 13

The Minister for Transport and Communications (Mr. Ntimama): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 13 be amended by deleting the word "servant" and inserting "staff".

(Question of the amendment proposed)

*(Question, that the words to be left out be left out
put and agreed to)*

*(Question, that the word to be inserted in place
thereof be inserted put and agreed to)*

(Clause 13 as amended agreed to)

(Clauses 14, 15, 16, 17, 18 and 19 agreed to)

Clause 20

The Minister for Transport and Communications (Mr. Ntimama): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 20 be amended -

(a) in subclause (4) by inserting the word "written" immediately before the word "consent".

(b) in subclause (II) -

(i) by deleting the word "determined";

(ii) by inserting at the end thereof the words "with the approval of the Auditor-General (Corporations)."

(Question of the amendment proposed)

*(Question, that the word to be left out be left,
put and agreed to)*

*(Question, that the words to be inserted be inserted,
put and agreed to)*

(Clause 20 as amended agreed to)

Clause 21

The Minister for Transport and Communications (Mr. Ntimama): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 21 be amended in subclause (1) by deleting the words "in which trustees may for the time being invest trust funds, or in any other securities".

(Question of the amendment proposed)

*(Question, that the words to be left out be left out,
put and agreed to)*

(Clause 21 as amended agreed to)

Clause 22

The Minister for Transport and Communications (Mr. Ntimama): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 22 be amended by renumbering the existing clause as subclause (1) and inserting the following new subclause (2):-

(2) The Minister shall lay the annual report before the National Assembly as soon as reasonably practicable after it is submitted to him.

(Question of the amendment proposed)

*(Question, that the words to be left out be left out,
put and agreed to)*

*(Question, that the words to be inserted be inserted,
put and agreed to)*

(Clause 22 as amended agreed to)

Clause 23

The Minister for Transport and Communications (Mr. Ntimama): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

That Clause 23 be amended by inserting the following proviso at the end thereof:-

Provided that nothing in this section shall absolve the Corporation from liability in cases where negligence is proven against it.

(Question of the amendment proposed)

*(Question, that the words to be inserted be inserted,
put and agreed to)*

(Clause 23 as amended agreed to)

(Clauses 24 and 25 agreed to)

Clause 26

The Minister for Transport and Communications (Mr. Ntimama): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

That Clause 26 be amended by inserting the word "registered" immediately before the word "post" appearing in paragraph (c).

(Question of the amendment proposed)

*(Question, that the word to be inserted be inserted,
put and agreed to)*

(Clause 26 as amended agreed to)

Clause 27

The Minister for Transport and Communications (Mr. Ntimama): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

That Clause 27 be amended by inserting the word "registered" immediately before the word "post" appearing in paragraph (c)

(Question of the amendment proposed)

*(Question, that the word to be inserted be inserted,
put and agreed to)*

(Clause 27 as amended agreed to)

Schedule

The Minister for Transport and Communications (Mr. Ntimama): Mr. Temporary Deputy Chairman, Sir, I beg to move that the Schedule be amended as follows:-

(a) in paragraph 3 by deleting the word "four" appearing in sub-paragraph (4) and inserting the word "five"; and,

(b) in paragraph 4 -

(i) by inserting the words "not take part..." upto the end of sub-paragraph (1) and inserting "shall be excluded from the meeting at which such contract, proposed contract or other matter is being considered"; and,

(ii) by deleting the proviso to sub-paragraph (1).

(Question of the amendment proposed)

*(Question, that the words to be left out be left out,
put and agreed to)*

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

(Schedule as amended agreed to)

(Title agreed to)

(Clause 1 agreed to)

The Minister for Transport and Communications (Mr. Ntimama): Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of The Postal Corporations Bill and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)
(The House resumed)

[Mr. Deputy Speaker in the Chair]

REPORT, CONSIDERATION OF REPORT AND THIRD READING

THE POSTAL CORPORATION BILL

The Minister for Transport and Communications (Mr. Ntimama): Mr. Deputy Speaker, Sir, I beg to report that a Committee of the whole House has considered the Postal Corporation Bill and approved the same with amendments.

The Minister for Transport and Communications (Mr. Ntimama): Mr. Deputy Speaker, Sir, I beg to move that the Postal Corporation Bill be now read the Third Time.

The Assistant Minister for Finance (Mr. Keah) seconded.

(Question proposed)

(Question put and agreed to)

The Assistant Minister for Finance (Mr. Keah): Mr. Deputy Speaker, Sir, I wish to congratulate the Minister for this Bill. The only observation I want to make at this Third Reading is that several things that we raised were not taken into account, for example, the issue of the accounts and the speeding up of the same, and the appointment of three members to the Board. I only hope that when Minister will be appointing those three members, he will not confine himself merely to the ones that are stated in the Bill. Any businessman who is competent enough can be appointed.

I beg to second.

(Question proposed)

Prof. Anyang'-Nyong'o: Mr. Deputy Speaker, Sir, I wish to concur with my friend, hon. Keah. This Bill, unfortunately, has not received as much attention as the Kenya Communication Bill, mainly because it was consequential to that one. I looked at the amendments submitted by the Minister and some of the contributions made by Members in this House to this Bill, and I noticed that they were not incorporated in those amendments. If, indeed, it has now passed the Committee Stage, it looks as if it will go through without those amendments. Could I appeal to the Minister that he looks at the HANSARD very carefully and takes into account some of the amendments that Members were proposing. Even though the Bill will become an Act, it is still possible that you can amend the Act subsequently, if, indeed, it is inadequate. I am very worried about this Bill because although it is very important, I do not think we have done it justice as we did with the Kenya Communications Bill.

(Question put and agreed to)
*(The Bill was accordingly read the
Third Time and passed)*

ADJOURNMENT

Mr. Deputy Speaker: Hon. Members, it is now time to interrupt the business of the House. The House is, therefore, adjourned until tomorrow, Thursday, 30th July, at 2.30 p.m. The House rose at 6.58 p.m.